

Study on Achieving Gender Equality in Family

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ABSTRACT. *The issue of gender justice in the family mainly revolves around the relationship between husband and wife, and sometimes it also involves the justice of distribution between sons and daughters in multi-child families. The gender inequality in the family is mainly reflected in three aspects, including the gendered division of unpaid housework, the women's vulnerability caused by marriage, and the unequal opportunities for personal development. Injustice in the family will destroy the intimate relationship between family members, and emotional repair cannot be achieved simply by correcting justice. It is necessary to guide and promote family justice through law, which is essential for maintaining family stability and enhancing family functions. The realization of gender justice in the family depends on the legal provisions of the reciprocal and altruistic relationship between husband and wife, the reasonable compensation for gendered division of housework, and the equal development of individuals.*

KEYWORDS: *family, gender equality, justice, personal development*

1. Introduction

The primary issue of the philosophy of family law is the relationship between men and women within the family framework, as well as the relationship between old and young. [1] The problem of gender justice in the family mainly revolves around the horizontal relationship between husband and wife, and sometimes it also involves the distribution of justice between sons and daughters in multi-child families. In 2018, the Supreme People's Court of China made a statistics on the 1.4 million divorce disputes in 2017, and published the "Judicial Big Data Special Report on Divorce Disputes" on this basis. [2] The report shows that in these divorce cases, the plaintiffs in 73.40% of the cases were women. This shows that women's happiness in marriage is declining. At the same time, as women become more economically independent, women's expectations of gender equality in family are also increasing. In contemporary Chinese society where the divorce rate is

increasing year after year and the marriage rate is declining, gender equality in the family is particularly important.

2. Gender injustice in family

2.1 Gender division of unpaid housework

In the traditional concept, women have the main responsibility for housework and child care, which is largely determined by the social construction of gender. In the mid-nineteenth century, the achievements of women in public life led feminists to put forward an important point that the difference between men and women is rooted in the injustice of acquired education, rather than innate physical differences. [3] Unpaid housework and children's upbringing responsibilities are mainly borne by the mother, so women lose the opportunity for personal development after marriage and passively bear the sacrifice of altruism. Due to the influence of traditional ideas, in Chinese society, women do more housework than men. In today's era, even if women go out to work, they have to take care of their families at the same time. Most women have to bear the financial responsibility as well as the burden of raising children and housework. Although women are the main bearers of child-rearing and housework during the marriage relationship, the provisions of the Marriage Law of China on the division of property during divorce do not adequately compensate women for child-rearing and housework. This constitutes an implicit institutional discrimination.

2.2 Women's vulnerability caused by marriage

In the traditional family, the husband provides financial resources and the wife does housework. This traditional concept of dividing responsibilities in marital life by gender continues to influence the thinking and behavior patterns of men and women. Even if the wife goes out to work, the salary income is relatively low. This leads to the wife may underestimate her contribution in the family and social fields, and thus underestimate the value of self. More importantly, if the wife has been out of work, her work ability will continue to decline, and it will be very difficult once she wants to find a job after divorce. Some women are preparing for marriage and childbirth very early. When they are preparing for employment, they will consider how to coordinate the relationship between work and raising children in the future. Such women are caught in a loop of vulnerability when they are employed. If measured by financial ability, she has placed herself in a relatively weak position when she made employment choices before marriage. After marriage, as a bearer of altruism, her weak position will intensify. Because of the responsibilities of housework and childcare, women's development in the workplace will be more restricted. Gender inequality in the workplace and gender inequality in the family will reinforce each other. Once the marriage ends, women's disadvantaged position will further deteriorate. In short, in the context of gendered social division of labor,

women are in a vulnerable position because of marriage. The longer the marriage lasts, the more vulnerable women are.

2.3 Unequal opportunities for personal development

As the main bearer of altruism in the family, women often passively give up opportunities for personal career development. Legislators are accustomed to understanding women's waiver of employment as a voluntary choice, ignoring the fact that power is unequal within the family. In particular, economists are used to calculating costs and benefits from the perspective of familism. For example, if the wife's salary is more beneficial to the family than staying at home to do housework and raising children, then the rational choice for her and her husband should be the wife's work out; if the contrary, she should stay at home. This method of calculating the family's overall benefits ignores the wife's development needs as an independent individual and the opportunity cost she loses. This method only focuses on the family's overall interests, takes people as means rather than ends, and ignores the wife's equal right to development. Economic dependence has a huge psychological impact on a person, and may even affect his personal safety. For example, wives and children who are subjected to domestic violence may not dare to resist because of economic dependence, and thus have to endure domestic violence for a long time. From the worst point of view, economic independence is very meaningful at the critical moment of marriage.

3. Gender equality in the family

3.1 Reciprocal altruistic relationship

Without a clearer understanding of marriage, there is no way to improve the unequal situation of women. People's expectation of marriage and the situation after entering marriage are often inconsistent, and there is no clear consensus in society on the nature of marriage. According to the theory of reciprocity and altruism, spousal relationship is a relationship of mutual respect and love and mutual assistance based on a non-blood relationship. It is a long-term cooperation established through mutual reward. From the perspective of identity relationship, the reciprocal altruism between husband and wife is achieved through spouse rights. The specific content of the spouse's rights includes, during the marriage, the husband and wife jointly negotiate on important family matters (birth rights, the right to decide the residence), mutual respect (freedom of occupation, study and social activities), living together (cohabitation obligation, faithful obligations), mutual assistance (right to support), mutual agency (right to act as an agent of daily family affairs). [4] The ideal spouse model should be that after the man and the woman sign a marriage contract and register as a legal couple, the law provides a model that clarifies the rights and obligations of both parties, so that the two independent civil subjects become a community of destiny in law. The Marriage Law of China has very few provisions on identity relationship. How to make the principled spouse's

rights concrete and implement is a problem that our legislators needs to solve urgently.

3.2 Reasonable compensation for gendered division of housework

According to the provisions of Article 40 of China's Marriage Law, if a couple agrees in writing that the property acquired during their marriage belongs to each other, but one of the parties bears more responsibility in raising children, caring for the elderly and assisting the other party in work, the one who carries more housework has the right to request compensation from the other party, and the other party should compensate. If there is no agreement, the statutory common property system applies. First of all, under the agreed property system, the Marriage Law and its judicial interpretation did not set specific standards for the monetization of housework, coupled with the difficulty of proof, resulting in the practice that the woman who undertakes more housework cannot obtain the corresponding compensation when divorcing. Secondly, in the context of the personal property system gradually replacing the common property system, large assets such as real estate have basically become personal property, fewer and fewer properties can be incorporated into the joint property of husband and wife. In this case, even if the couple's common property is evenly divided during the divorce, it will not be able to fully compensate the housework bearer's contribution. Thirdly, compensation for child-rearing and housework should not be limited to the labor they paid, but also include the personal development benefits that were given up for taking care of the family. [5]

The legislator should pay sufficient attention to the allocation of responsibilities for child-rearing and housework, and stipulate the compensation standards for the main undertakers. Whether the distribution of responsibilities for child-rearing and housework is fair, and whether the standard of compensation is scientific, directly affects women's self-worth identification and family stability. If women quit the workplace on the basis of free choice, not passive sacrifice, then we only need to discuss how to monetize housework. If a woman gives up her career and returns to the family because she needs to support her husband's development and raise her children, should the opportunity cost she gave up be compensated during the divorce? There is no doubt that the compensation should be made. But the quantification of opportunity cost is very difficult and cannot be calculated as expected benefits. In reality, women often do not get the respect and recognition from their families when they give up their careers for family, and it is difficult to get legal support to compensate for the opportunity cost. Under the pressure of implicit discrimination, contemporary women have gradually changed their concept of spouse selection. They would rather choose to marry a man who is willing to share half of the housework, so that they can continue to develop their career after marriage.

3.3 Equal opportunities for individual development

In a just society, family structure and family practice should provide women with the same opportunities as men to develop their own careers, practice political power, make influential social choices, and enjoy economic and physical security. “What is the manifestation of equality, and in what ways can it reflect equality, this is our entry point to grasp equality.”[6] The best theory of justice is to comprehensively consider the viewpoint of “everyone”, including not only the viewpoint of men, but also the viewpoint of women. Without this, it is not true justice. At present, China's Marriage Law does not fully protect the rights of full-time housewives. Women who give up their career in order to raise their children may be empty-handed when divorcing, and they will be treated unfairly in the workplace because they miss the optimal age for development when they re-employ. Career development and parenting cannot be perfectly balanced. When the law does not protect the rights of housewives, after weighing the pros and cons, women will naturally make a less costly and risky choice, that is, to delay or give up childbirth and give priority to career development. Enlightened parents also hope that their daughters can own their own business, although they think that marriage is very important. Therefore, when facing the dilemma of balancing career and family, parents will actively undertake the task of raising the third generation, liberating young wives from housework and childcare, and helping them devote their energies to improving their personal abilities and career development. Generally speaking, China's downward-style familism is more conducive to meeting the needs of women's equal development.

4. Conclusion

The research on family justice does not simply call for favoring and caring for vulnerable groups in the distribution of benefits, but expects to promote the equal development of individuals, change and enhance the ability of the weaker party, and finally achieve gender equality in the family. To study the issue of gender equality in the family, it is also necessary to pay attention to the differences in gender culture. For some women, she may be deeply influenced by the cultural system in which she lives and values, and she is willing to maintain the patriarchal culture and social mechanisms that are not good for women. She may recognize this injustice but succumb, or she may be in it and regard injustice as justice. The situation in judicial practice is far more complicated than theory. Faced with the imbalance in the development of gender culture and gender awareness, we should actively change this status quo through education.

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