

Valuation of Unpaid Domestic Work in Divorce and Alimony Cases

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Abstract

Unpaid domestic work plays a vital role in maintaining households and supporting families, yet it often goes unrecognized in law, especially during divorce and alimony cases. Homemakers, mostly women, contribute years of labour through cooking, cleaning, child care, and managing the home, but their work is not given monetary value when courts divide property or decide maintenance. This creates inequality, as the earning spouse benefits from the homemaker's constant support while the homemaker is left financially vulnerable after separation. Some countries have already started recognizing household work in family law, and Indian courts have also highlighted its importance in recent judgments. However, there is still no clear legal method for valuing this contribution. Giving recognition to unpaid domestic work would not only ensure fairness and financial security for homemakers but also promote gender equality and dignity in marriage laws. Keywords: Unpaid, domestic work, households

Introduction

In every family, both partners contribute to building a home, but their roles are often very different. One partner may earn money through a job or business, while the other may spend most of their time taking care of the house, children, and elders. This household work is just as important as paid work, because without it the earning partner could not focus on their career. Yet, in most cases, this unpaid domestic work is not recognized as “real work.” It is considered a duty rather than a contribution. This problem becomes very serious when a marriage breaks down. In divorce and alimony cases, courts generally focus on income, property, and financial assets. The years of cooking, cleaning, child-rearing, and emotional support provided by the homemaker are often left out of the calculation. As a result, many homemakers, especially women, are left financially weak after divorce, even though they worked hard every single day for the family's welfare. Across the world, some legal systems have tried to solve this problem by recognizing household work in property division and maintenance laws. For example, countries like Canada, Australia, and the United Kingdom consider homemaking as a valuable contribution. In India too, the Supreme Court has in a

few judgments acknowledged the value of housework, but there is still no fixed rule or formula.

This paper discusses why unpaid domestic work should be valued in divorce and alimony cases. It looks at the legal position in India, compares it with other countries, and suggests ways in which the law can ensure fairness for homemakers. Recognizing housework is not only about money—it is also about respecting dignity, equality, and the invisible labour that keeps families and societies running.

Legal Background in India

In India, the legal framework surrounding divorce and alimony provides some scope for maintenance but does not explicitly recognize the economic value of domestic work. The Hindu Marriage Act, 1955, and Section 125 of the Code of Criminal Procedure (CrPC) primarily deal with maintenance and alimony, but the focus is on financial dependency rather than the contribution made through household work. This legal gap means that homemakers, despite years of unpaid contribution, are often left with minimal support post-divorce. The Supreme Court has, however, gradually moved towards acknowledging this contribution in certain contexts. In *Arun Kumar Agrawal v. National Insurance Co.* (2010), the Court recognized that the services rendered by a homemaker cannot be equated with monetary earnings but are nonetheless of significant value. Similarly, in *Kirti v. Oriental Insurance Co.* (2021), the Court recognized homemakers' work while calculating compensation in motor accident claims. In *Rajnish v. Neha* (2020), the Court issued guidelines for determining maintenance but stopped short of framing a formula for valuing housework. These judicial pronouncements reflect an emerging awareness, but without statutory recognition, unpaid domestic work remains marginalized in divorce proceedings.

Comparative Jurisprudence

The problem is not unique to India, and comparative jurisprudence offers useful insights into how unpaid domestic work can be valued in matrimonial disputes. For instance, in the United Kingdom, courts adopt the principle that marriage is a partnership of equals and consider both financial and non-financial contributions when dividing matrimonial property. Canada follows a similar approach, with its family law recognizing homemaking as an equal partnership contribution. Australia's Family Law Act explicitly factors in non-financial contributions such as homemaking and childrearing when determining property settlements. Venezuela goes a step further by constitutionally recognizing housework as productive labour, thereby giving it explicit legal and economic value. These jurisdictions show that it is possible to integrate unpaid domestic work into legal frameworks, and their experiences can serve as valuable models for India. A comparative perspective highlights how recognition of unpaid labour strengthens gender justice, ensures fairness in divorce settlements, and provides economic security to non-earning spouses.

Theoretical Frameworks

From a theoretical perspective, the valuation of unpaid domestic work is supported by multiple schools of thought. Feminist jurisprudence argues that the exclusion of household work from legal and economic recognition reinforces structural gender inequality, as it devalues women's role in society. The economic justice approach emphasizes that domestic work directly contributes to the earning capacity of the employed spouse, since without such support, the breadwinner could not sustain their productivity in the labour market. Social reproduction theory goes further by contending that housework and caregiving are essential for sustaining the workforce and thus form the foundation of the entire economy. Ignoring these contributions not only perpetuates economic disparity but also undermines the dignity of women who sacrifice career opportunities for household responsibilities. Therefore, any serious attempt at achieving equality in family law must include the valuation of unpaid domestic work.

Methods of Valuation

Various methods have been suggested to assign a financial value to unpaid domestic labour. The opportunity cost method calculates what the homemaker could have earned had they participated in the

labour market instead of performing domestic duties. The replacement cost method values household work by estimating the cost of hiring workers such as cooks, cleaners, and caregivers to perform similar services. Hybrid models combine these approaches, attempting to capture both the forgone earnings and the replacement expenses. Courts in some jurisdictions also rely on judicial discretion, assigning a reasonable percentage of the earning spouse's income as recognition of unpaid contributions. While each method has its strengths and weaknesses, they offer workable frameworks that can be tailored to specific cases. Adopting such methods in India would not only ensure fairness but also create a uniform approach for valuing housework in matrimonial disputes.

Challenges in Implementation

Despite the compelling arguments for valuing unpaid domestic work, significant challenges remain. One of the major obstacles is the lack of a uniform formula that can be applied across different cases. Domestic work is diverse, ranging from childcare to emotional labour, making it difficult to quantify. There is also a risk of commodifying intimate relationships if household work is treated solely in monetary terms. Furthermore, emotional labour and caregiving, which are central to family life, cannot always be captured in financial figures. Another concern is the possibility of misuse in contentious divorces, where exaggerated claims may be made to secure higher alimony. These challenges highlight the need for a balanced approach that recognizes the value of unpaid work without reducing it to mere numbers or opening avenues for abuse.

Review of Literature

Many researchers have written about how unpaid domestic work is often invisible in law and the economy. Scholars point out that housework and caregiving form the backbone of family life, but since they are not paid, they are treated as if they have no value. Feminist writers argue that this invisibility creates inequality because women spend more time on household work than men, which keeps them financially dependent. Legal scholars therefore suggest that divorce and alimony laws should give proper recognition to these contributions, either by awarding a fair share in property or by valuing household work directly. Economists also discuss different ways of valuing housework. One way is the replacement cost method, where the value is calculated based on how much it would cost to hire domestic workers, cooks, or childcare providers. Another is the opportunity cost method, where the court looks at what the homemaker could have earned if they worked outside the home. Some studies recommend a mix of both methods, since replacement cost ignores career sacrifice, while opportunity cost can be hard to prove. Global bodies like the UN also stress that unpaid work must be recognized for gender equality, and India too has conducted time-use surveys showing how much time women spend in household work compared to men. Internationally, some countries already recognize household work in family law. For example, in Canada, Australia, and the UK, homemaking and child-rearing are considered "nonfinancial contributions," and courts give homemakers a fair share of property during divorce. In Latin America, a few constitutions even declare that domestic work is productive work. These comparative examples show that legal systems can and do value housework in matrimonial cases.

In India, legal scholars have welcomed Supreme Court judgments that acknowledge the value of housework. For example, in cases like *Arun Kumar Agrawal v. National Insurance Co.* and *Kirti v. Oriental Insurance Co.*, the court recognized homemakers' economic value in accident compensation. Similarly, in *Rajnish v. Neha*, guidelines were issued for deciding maintenance, but no clear formula was provided for

valuing unpaid work in divorce cases. Commentators argue that if courts can assign monetary value to housework in compensation cases, the same should apply in matrimonial disputes as well. At the same time, some scholars raise concerns. They warn that putting a price on family relationships may lead to conflicts, that proving hours of work is difficult, and that courts may end up with inconsistent results. Others argue that if property division already accounts for a homemaker's role, direct payment for housework may lead to double benefits. Still, most researchers agree that the harm of giving housework no value at all is much greater than the risks of overvaluation. Overall, the literature shows that while Indian courts and academics recognize unpaid domestic work in theory, there is no standard formula or consistent practice in divorce and alimony cases. Other countries provide useful models, and scholars stress that India needs clearer guidelines, judicial training, and policy reforms to ensure fairness for homemakers. The gap between theory and practice is still wide, which makes this a relevant and important area for further research.

Hypothesis

The absence of a legal framework for valuing unpaid domestic work leads to inconsistent alimony decisions across courts.

Suggestions and Recommendations

Findings

The study finds that unpaid domestic work plays a central role in family life, yet in India it is not given proper financial or legal recognition in divorce and alimony cases. While courts have acknowledged that housework has economic value in accident compensation cases, they rarely apply the same reasoning when dividing property or fixing alimony. This creates inequality, because the earning spouse is able to build wealth and a career with the support of the homemaker, but the homemaker is left financially weak after separation. The research also shows that Indian laws, such as the Hindu Marriage Act and Section 125 CrPC, focus mainly on financial dependency and maintenance, not on valuing household contributions. In contrast, countries like Canada, Australia, and the UK already treat homemaking as a non-financial contribution in family law, and their courts regularly consider it while deciding divorce settlements. Another important finding is that although time-use surveys and global studies highlight the huge amount of unpaid work done by women, Indian family courts lack a clear formula or guidelines to measure its value.

This makes decisions inconsistent and heavily dependent on the judge's discretion.

Suggestions

To ensure fairness in divorce and alimony cases, there is a need for legal and policy reforms in India. First, family laws should be amended to explicitly recognize unpaid domestic work as a contribution in marriage, similar to how earning an income is recognized. Second, the Supreme Court or Law Commission should prepare clear guidelines for valuing household work, possibly using a mix of replacement cost (hiring domestic help) and opportunity cost (loss of career income). Third, family courts should be encouraged to treat homemakers' role as equal to that of the earning spouse while dividing assets and fixing alimony. Fourth, the government should strengthen social security schemes like pension, insurance, or welfare support for homemakers to provide them long-term financial security. Finally, awareness campaigns and judicial training are needed to change the mindset that housework is only a "duty" and not

“work.” Recognizing the economic value of domestic work would not only protect homemakers in divorce cases but also promote gender equality and dignity in society.

Conclusion

Recognition of unpaid domestic work in divorce and alimony is not only a legal necessity but also a step towards gender equality and social justice. Courts across the world have gradually moved towards acknowledging homemakers’ contributions, and India too must follow suit. Assigning value to housework ensures that women are not left financially vulnerable after divorce and affirms the constitutional vision of equality and dignity.

In every household, a large part of the work is done by homemakers. Cooking, cleaning, taking care of children, looking after elders, and managing the home are all important tasks, but they are usually unpaid and often ignored. Most of this work is done by women, and when a marriage breaks down, their contribution is not properly recognized in divorce and alimony cases. Courts generally look at money earned, property owned, or financial assets, but the years of hard work a homemaker puts into keeping the family together often go unnoticed. This creates unfairness, because the earning partner could not have built wealth or a career without the constant support at home. Some countries like Canada, Australia, and the UK already consider household work as a

contribution when dividing property or granting alimony. In India, courts have started to recognize its importance in some cases. For example, the Supreme Court in *Kirti v. Oriental Insurance* (2021) said that a homemaker’s work has economic value, but there is still no clear formula to calculate it in divorce cases. If housework were given a value, it could be measured either by the cost of hiring someone else to do the same work (replacement cost method) or by looking at what the homemaker could have earned if she worked outside the home (opportunity cost method).

The main challenge is how to put a price on love, care, and emotional labour that a homemaker provides, since these cannot be measured in money. Yet, giving no recognition at all is unjust. Many women face financial hardship after divorce because their years of unpaid work are treated as “nothing” in legal terms. Recognizing domestic work in law would ensure fairness, dignity, and equality in matrimonial cases. It would also send a strong message that housework is real work, and that homemakers deserve economic as well as social respect.