



## Protecting the rights of spouses who are the "Economically disadvantaged party" In marriage and family relationships

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### Abstract

In marriage and family relationships, economic disparity between husband and wife is a common issue, often placing one party in a vulnerable position, economic dependence on the other side and limited decision power. The economically disadvantaged spouse typically bears greater risks related to property ownership, income, and post-divorce economic security. This issue of protecting the rights of husband and wife who are economically disadvantaged parties in marriage and family relationships is currently not being effective and lacks specific regulations. This article focuses on analyzing the fundamental causes of economic vulnerability between spouses, thereby analyzing some guarantee mechanisms in Vietnamese law and other national laws.

**Keywords:** Economically disadvantaged party, rights, protect, causes, guarantee mechanisms, marriage and family, spouses, Vietnamese law, national laws

### Introduction

Although marriage and family relationships are legally grounded in the principle of equality between spouses, economic disparities often arise in practice, placing one spouse in a vulnerable position due to unequal income, limited access to employment, unequal property ownership, or the disproportionate burden of unpaid domestic and caregiving labor. This economic disadvantage weakens the spouse's ability to participate equally in decision-making during marriage and to protect their legitimate rights, particularly in matters of property division, maintenance, and post-divorce economic security. Traditional gender roles and structural inequalities further deepen this vulnerability, resulting in a gap between formal legal equality and substantive protection. Therefore, protecting the rights of economically disadvantaged spouses is essential to ensuring substantive equality, social justice, and stability in marriage and family relationships, which forms the central focus of this article.

### The Causes of Economic Disadvantage of Spouse in Marriage and Family Relationships

The economic disadvantage of a spouse in marriage is not an isolated or incidental phenomenon, but the result of the impact of multiple social, financial, and legal factors. Although most countries do not define "the economically disadvantaged party" in marriage, it frequently occurs in modern life. These factors operate throughout the duration of marriage and continue to affect the weaker after the cessation of marital relations. Accordingly, understanding the causes of economic vulnerability is essential for drawing effective legal mechanisms to secure substantive equality between spouses.

First of all, the most significant causes of economic disadvantage lies in the traditional division of labor based on gender roles within the family. In many societies, including transitional and developing economies, one spouse—most commonly the wife—assumes primary responsibility for unpaid domestic work, childcare, and the

care of elderly family members. While this labor is essential for the maintenance and reproduction of the family unit, it is not recognized or remunerated in the market economy. As a consequence, the spouse performing unpaid domestic labor often experiences limited participation in paid employment, reduced opportunities for career advancement, and a diminished capacity to accumulate personal income and assets, thereby becoming financially dependent on the other spouse.

Another important factor contributing to economic vulnerability is unequal access to employment opportunities and economic resources. Interruptions in employment due to pregnancy, childbirth, or family caregiving responsibilities frequently result in unstable career trajectories and lower lifetime earnings for the economically disadvantaged spouse. In addition, disparities in education, professional training, and access to information or credit further restrict the ability of one spouse to engage in income-generating activities. These inequalities not only affect present economic conditions but also undermine long-term financial security, particularly in cases of divorce or marital breakdown.

The management and ownership of marital property also play a crucial role in creating economic imbalance between spouses. In practice, even where the law recognizes joint ownership of marital property, assets are often registered in the name of one spouse, usually the economically dominant party. Limited financial transparency within marriage, combined with unequal decision-making power, may prevent the economically weaker spouse from effectively accessing or controlling common assets. In some cases, economic control may evolve into "economic abuse", further deepening financial dependence.

Legal and institutional factors may also contribute to the persistence of economic disadvantage in marriage. Even though many legal systems formally affirm the principle of equality between spouses, existing regulations and judicial practices do not always adequately account for the economic value of unpaid domestic labor or the long-term

consequences of economic dependence. The lack of clear legal standards for evaluating non-monetary contributions and for ensuring fair property division or adequate spousal maintenance can result in outcomes that disadvantage the economically weaker spouse, particularly upon divorce.

Finally, broader socio-cultural norms and structural inequalities reinforce economic disparities within marriage. Social expectations regarding gender roles, family responsibilities, and economic provision often limit the choices available to one spouse and normalize economic dependence as a natural aspect of marital life. These norms, when combined with insufficient legal protection and enforcement, perpetuate systemic inequality and hinder the realization of substantive equality between spouses.

In summary, the economic disadvantage of one spouse in marriage arises from a complex interplay of unpaid domestic labor, unequal access to employment and resources, imbalanced property management, and legal as well as socio-cultural constraints. Addressing these root causes is a necessary prerequisite for developing a legal framework capable of effectively securing the rights and legitimate interests of economically disadvantaged spouses in marriage and family relationships

### **Mechanisms for Protecting the Rights of Economically Disadvantaged Spouses in Marriage and Family Relations in Selected Countries**

Around the world, most countries have increasingly recognized the importance and legal status of economically dependent family members, as well as the value of their contributions to family life, particularly through unpaid domestic and caregiving work. However, legal regulations on this issue vary significantly among countries. In general, existing mechanisms tend to focus on three main stages: (1) ensuring the rights of the economically weaker party during marriage; (2) protecting their interests during divorce proceedings; and (3) safeguarding their rights after divorce. Firstly, during the marriage period, the division of labor within the family often results in one spouse becoming economically dependent, which makes them vulnerable to financial control and inequality in the management of marital property. In most countries, there is still a lack of sufficiently strong legal mechanisms to protect the economically weaker spouse at this stage. Legal protection largely relies on the goodwill and voluntary behavior of the economically stronger spouse. Many legal systems do not recognize spousal maintenance during marriage, while mechanisms for the division or management of marital property during marriage are primarily based on agreements between spouses, which may not always reflect substantive equality.

Secondly, during divorce proceedings, the economically weaker spouse is particularly vulnerable, as property rights and maintenance obligations are often not determined until a final court judgment is issued. Prolonged litigation may place this spouse—especially those without independent income—at serious financial risk, leading to hardship and deprivation. To address this issue, some countries within the Common Law system, such as the United Kingdom and the United States, have developed the mechanism of interim maintenance, which provides temporary financial support to the dependent spouse during the divorce process.

Following this, after divorce, economically weaker spouses often face significant risks when transitioning to an

independent life, including insufficient income, financial insecurity, and, in some cases, disadvantages related to child custody or support. Consequently, many countries have established property division regimes based on actual contributions, explicitly recognizing both financial and non-financial contributions, including domestic labor and caregiving work.

Some more progressive legal systems, such as France, have introduced innovative enforcement mechanisms to ensure the effective payment of maintenance obligations. France applies the mechanism of *intermédiation financière des pensions alimentaires*, under which the State advances maintenance payments through public bodies such as the *Caisse d'Allocations Familiales (CAF)* and the *Caisse Nationale des Allocations Familiales (CNAF)*, and subsequently recovers the amounts from the obligated party. In cases of non-payment or partial payment, compulsory recovery mechanisms are automatically triggered. This mechanism is explicitly provided for in Article L.582-1 (VI) of the French Social Security Code, which authorizes intermediary agencies to initiate recovery measures from the first instance of delayed payment, in accordance with statutory procedures. This system, known as the public service for the provision of maintenance payments, aims to establish a more effective and compulsory enforcement framework.

Historically, as early as the Middle Ages, many countries had legal provisions aimed at protecting women as economically weaker parties, such as the *Magna Carta (1215)* in England and the *Quoc Trieu Hinh Luat* during the *Le Dynasty* in Vietnam. Although these historical regulations primarily focused on protecting women, in substance they functioned as mechanisms to protect economically weaker spouses, reflecting the historical reality that women were largely financially dependent on their husbands. Despite their limitations, these early protective institutions laid an important foundation for the development of modern legal systems oriented toward gender equality and the protection of vulnerable parties.

Even today, many countries continue to maintain unequal legal provisions influenced by religious and cultural factors. Typical examples include legal systems that apply “male guardianship regimes”, which impose financial dependence on women and restrict their ability to freely participate in economic activities. As a result, women in such systems often face significant barriers to career opportunities and personal development.

In general, while the laws of many countries have made notable progress in recognizing and protecting the rights of economically weaker spouses in marriage and family relations, significant gaps remain. Legal provisions are often unclear or insufficiently effective to provide comprehensive protection. Therefore, continued research and legal reform are necessary to further improve mechanisms for safeguarding the rights of economically vulnerable spouses in marriage.

### **Vietnamese Legal on Protecting the Rights of Economically Disadvantaged Spouses**

In Vietnam today, the fundamental rights of spouses are relatively comprehensively regulated in the *Law on Marriage and Family 2014*. These rights range from personal rights—such as freedom of belief and religion, the right to education, career development, and participation in

political, economic, cultural, and social activities-to property-related rights, including rights to marital property, separate property, and post-divorce maintenance. In addition to defining the rights and obligations of spouses, Vietnamese law also specifies the roles and responsibilities of other relevant actors in marriage and family relations, as well as the State's role in managing and maintaining stability in this field.

Despite having been codified for a considerable period of time, regulations governing marriage and family relations have not been fully or effectively implemented in practice due to various shortcomings and gaps. These limitations directly affect the rights and interests of spouses who are economically weaker within marriage, as the existing legal framework remains insufficient to provide effective protection for this group.

Firstly, the lack of specific enforcement mechanisms results in frequent violations of the rights of economically weaker spouses.

Marriage, by its nature, does not diminish the inherent value or rights of each individual. On the contrary, it serves to further specify and expand the rights and obligations of spouses in various aspects of life. Before and after marriage, each individual, as a citizen, enjoys the full range of human rights and civil rights recognized and protected by both international and national law. From international instruments such as the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (ICCPR, 1966), and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966), to domestic legal documents such as the Constitution (2013) and the Law on Marriage and Family 2014, human rights in general-and the rights of spouses in particular-are recognized as inherent, equal, and inviolable, subject only to lawful limitations in exceptional circumstances.

However, in the practical context of marriage, significant disparities in economic conditions between spouses often exist, which substantially restrict the ability of the economically weaker spouse to access and effectively exercise their lawful rights. Economic dependence may arise from various factors, including differences in work capacity, educational attainment, income, asset ownership, as well as social influences such as gender stereotypes and traditional perceptions of family roles. Unlike marriages in which spouses hold relatively equal economic positions and are able to negotiate and make decisions on an equal footing, marriages characterized by economic imbalance tend to generate unequal power relations within the family. As a result, economically weaker spouses often face difficulties in participating in family decision-making processes, particularly those related to property management, shared living arrangements, and long-term planning. They may lack the resources or capacity to protect their own rights, challenge disadvantageous arrangements, or demand the full realization of their legitimate interests. Consequently, many fundamental rights-despite being formally recognized by law-are obstructed in practice or inadequately guaranteed for the economically weaker spouse.

With respect to personal rights, Vietnamese law has sought to concretize the principle of equality between spouses. Section 17 of the Law on Marriage and Family 2014 provides for equal personal rights and obligations of

husbands and wives. Due to the intangible nature of personal rights and the difficulty of measuring their infringement, existing regulations remain largely formalistic and lack effective enforcement mechanisms. In practice, there are no clear criteria for assessing compliance with the principle of spousal equality, insufficient legal bases for identifying violations, and limited intervention or sanctioning mechanisms when personal rights are infringed. These shortcomings become particularly pronounced in marriages marked by economic disparities, where economically weaker spouses face greater obstacles in protecting their personal rights. As such, the absence of effective enforcement mechanisms constitutes a significant legal gap, increasing the risk of rights violations against economically vulnerable spouses.

Regarding property rights, Vietnamese marriage and family law has established a relatively comprehensive legal framework governing spousal property relations. Relevant provisions are set out in Section 3, Chapter III of the Law on Marriage and Family 2014; Articles 59 to 64 of Chapter IV of the Law; Chapter II of Decree No.126/2014/ND-CP; and guiding provisions in Joint Circular No.01/2016. However, when considering the specific characteristics and position of economically weaker spouses, it becomes evident that their property rights are not fully protected in practice. Although the legal basis for protecting property rights exists, such protection is most effective only when disputes arise with third parties or when the marriage relationship terminates-particularly in divorce proceedings-where competent state authorities directly intervene.

By contrast, during the subsistence of marriage, economically weaker spouses often face significant limitations in safeguarding their property rights due to their economic dependence. Current law lacks sufficiently strong monitoring and enforcement mechanisms to protect individual property rights in everyday marital life. This deficiency leads to situations in which rights and obligations recognized by law are not fully realized in practice. Common issues include a lack of transparency in the identification and management of separate and common property, especially when one spouse controls the assets and the other lacks access to information or evidence to verify or prove asset values. Similarly, agreements on marital property may fail to ensure substantive fairness due to the absence of oversight mechanisms and difficulties in assessing equality.

Secondly, legal provisions addressing economic violence-one of the primary causes of economic vulnerability within marriage-remain inadequate.

Although "economic violence" has been recognized as domestic violence in the Law on Domestic Violence Prevention and Control 2022, its prevention and resolution in practice face numerous obstacles, including the absence of detailed legal guidance, insufficiently feasible protective measures, and ineffective coordination among relevant authorities. Acts such as controlling income, appropriating financial resources, restricting access to employment or education, or preventing access to marital property are relatively common in marital relationships, yet they are difficult to identify and address due to the lack of clear legal standards and evidentiary guidelines. Current law does not provide specific instructions on proof or intervention procedures. Moreover, emergency protective measures tailored to cases of economic violence-such as imposing

temporary financial support obligations, ensuring access to common property, or restricting contact when necessary-are not comprehensively regulated, thereby undermining the effectiveness of legal protection for economically weaker spouses.

Thirdly, there is a lack of clear regulations on the responsibilities and jurisdiction of competent state authorities in coordinating efforts to prevent and address economic vulnerability in marriage.

Economically disadvantaged spouses often lack the capacity to independently protect their lawful rights and interests, making effective protection highly dependent on the legal system and the actions of competent authorities. However, current legislation does not establish a comprehensive framework defining the responsibilities, powers, and coordination mechanisms among state agencies and relevant organizations tasked with protecting marital and family rights. Therefore, it is necessary to supplement and refine legal provisions by clearly allocating legal responsibilities to each authority involved in receiving complaints, providing assistance, intervening, and ensuring timely protection of economically weaker spouses. At the same time, unified and feasible coordination mechanisms should be developed to enhance law enforcement effectiveness and overcome the current tendency toward formalistic protection. Only through the improvement of both the legal framework and enforcement mechanisms can the rights of economically weaker spouses in marriage be substantively and effectively safeguarded, in line with the objective of building equal, progressive, and civilized marital relationships.

### Conclusion

Despite the legal principle of equality between spouses, economic disadvantage within marriage continues to persist due to unpaid domestic labor, unequal access to economic resources, and imbalanced property management. Protecting the rights of economically disadvantaged spouses therefore requires a shift toward substantive equality, through legal mechanisms that recognize non-monetary contributions, ensure fair property division, and provide effective spousal support. Strengthening these protections is essential not only to safeguard individual rights but also to promote fairness, stability, and social justice in marriage and family relationships.

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