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离婚妇女权益保护的法律研究

A Study on the Legal Protection of Divorced Women

李 琳 琳

指导教师姓名：陈辉萍 教授

专业名称：法律硕士

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李琳琳

指导教师
陈辉萍教授

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内容摘要

当前,随着我国市场经济的发展和人们生活水平的逐步提高,妇女的地位也有了较大的改善。但是,我国的离婚率也逐年上升。离婚妇女的合法权益保护成为一个重要的法律问题。近年来,社会已逐渐视离婚为一种常态的社会现象,人们也普遍认为女性也应该享有平等的离婚权,但这并不能掩盖女性在离婚后所面临的尴尬和困境。离婚妇女特别是家庭主妇和育有低龄子女的妇女,通常会在离异后生活困难或生活质量严重下降。

论文通过调查与实务中的案例分析,对我国社会的离婚妇女问题进行解析,对这一社会现象给予足够的重视。在借鉴国外对离婚妇女的保护做法和经验的基础上,论文提出了对离婚妇女权益保护具有针对性的措施。全文除引言和结论外,共分为四章。

第一章主要探讨离婚妇女权益保护中存在的问题。本章以笔者接触过的一个相关案例为引子,引出我国离婚妇女合法权益保护中存在的现实问题。

第二章重点分析离婚妇女合法权益易遭到侵害的原因。本章主要从不同角度对我国离婚妇女合法权益易遭到侵害的原因进行分析讨论。首先,从社会性别理论分析了人类社会中男女不平等的实质和根源;其次,从我国女性主体意识不断增强,女性日渐注重婚姻质量的提高,女性常以放弃合法权利为代价换取婚姻的解除等方面反映出我国婚姻法对离婚妇女合法权益的保护力度日显单薄。

第三章借鉴美国、德国对离婚妇女权益的保护。本章运用比较分析法,通过分析美国、德国婚姻法对离婚的规定,介绍了国外对离婚妇女权益保护的相关经验,指出了我国婚姻法在离婚妇女权益保护方面存在的缺漏。

第四章提出完善我国离婚妇女权益保护的建议。本章笔者提出了完善我国离婚妇女权益保护的具体构想,提出了包括完善相关诉讼法、健全离婚损害赔偿的举证与标准、建立离婚妇女社会救济制度、通过社区等切实保障离婚妇女探视权、建立离婚妇女住房保障制度等建议。

关键词: 离婚妇女; 权益保护; 财产分割

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ABSTRACT

With the development of China's Market economy and the improvement of people's life, the status of women have been greatly raised. But our divorce rate is also increased year by year, thus the protection of legitimate interests of divorced women becomes an important legal issue. In recent years, divorce has been regarded as a kind of normal social phenomenon, and the fact that there should be an equal right to divorce for women is also be accepted widely, however the embarrassment and difficulties of divorced women can't be hid. Many of them especially the housewives and the ones with young children lead harder lives after divorces.

Through the analysis of the case investigation and practice, this article elaborates on the issue of divorced women in our society, paying much attention to the phenomenon. Based on learning from foreign practice, the article puts forward many corresponding measures. Besides the introduction and conclusion, this article is divided into four chapters.

Chapter 1 probes into the problems of divorced women's rights protection. On the basis of a related case the author experienced, the chapter draws forth the real problems in the protection of divorced women's legitimate interests.

Chapter 2 analyzes of reasons why the divorced women's rights and interests are easily to be harmed. The chapter mainly elaborates the source from the different aspects. Firstly, the gender theory shows the essence and root of the inequality between men and women in the human society. Secondly, the article expounds upon the real problems exiting in the legal practice from the other aspect that the gradual strength of sense of independence of women and their pursues for the marriage quality are in contrast with the fact that the protection for divorced women in marriage law is too weak.

Chapter 3 learns some good experience of the protection for divorced

women from the U.S. and Germany. This chapter introduces the good practice through the elaboration of related clauses in U.S. Marriage Law and Germany Marriage Law, by way of comparative analysis. At the same time, the chapter points out the defects of our marriage law.

Chapter 4 recommends some measures to improve the protection of the divorced women's rights and interests. In this chapter, the author sets forth the specific thoughts including perfection of related procedural law, improvement of divorce damage compensation's proof standard, establishment of social relief system for divorced women, safeguarding visitation rights by the communities, etc., and establishing housing security system for divorced women.

Key Words: Divorced women; The protection of rights and interests; Division of property

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