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A Proposal to Ease the Heavy Burden of Domestic Labour

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Abstract

Domestic labour, a well-known form of unpaid labour, is widespread throughout many countries. Most domestic labour is performed mostly by housewives. Housewives often face uncertainty about their future because of a lack of adequate social security, regular income, and retirement plans. As a functional tool for transforming society, law plays a role in changing such social inequalities. In this article, we discuss how law can offer remedies to fix domestic labour problems. Drawing on feminist standpoint theory, this article explores how scientific methods can contribute to understanding and redressing domestic labour problems with to-the-point regulations. Feminist Standpoint Theory asserts that knowledge is socially situated. It contends that marginalised groups, such as women, are uniquely aware of social and political issues because of their lived experiences. According to this theory, research should begin from the standpoint of these marginalised individuals. By doing so, biases can be addressed, and a more just society can be achieved. In essence, it challenges the traditional objectivity of scientific research and emphasises the importance of diverse perspectives. In this context, this article discusses the significance of evidence-influenced policies in addressing women's problems. While doing so, we will present the progress of Türkiye with examples of its efforts to tackle gender inequalities. The article acknowledges opposition from the men's right movement, which seeks to reverse advancements in women's rights in Türkiye. However, it argues that their arguments are ideological rather than based on evidence, particularly regarding property division laws. In this article, we focus on the matrimonial property regime, which is one of the many negative contributors to the problems of the performers of domestic labour. As a remedy, we propose amendments to the Civil Code.

Keywords

Domestic Labour, Unpaid Labour, Housewives, Gender Inequalities, and the Matrimonial Property Regime

Ev İçi Emeğin Ağır Yükünü Azaltmak İçin Bir Öneri

Öz

Ücretsiz emeğin yaygın görünümü olan ev içi emek birçok ülkede yaygındır. Ev içi emeğin büyük bir kısmı ev hanımları tarafından gerçekleştirilmektedir. Ev hanımlarının gereğine uygun bir sosyal güvenceden, düzenli bir gelirden ve emeklilik planlarından yoksun yaşamları gelecekleri açısından belirsizlik yaratmaktadır. Toplumu dönüştürmek için işlevsel bir araç olan hukuk, bu tür toplumsal eşitsizlikleri değiştirecek bir işleve sahiptir. Bu makalede, hukukun ev içi emek sorunlarını çözmek için nasıl çözümler sunabileceğini tartışacağız. Feminist duruş kuramına dayanan bu makale, bilimsel yöntemlerin ev içi emek sorunlarının anlaşılmasına ve yerinde düzenlemelerle giderilmesine nasıl katkıda bulunabileceğini araştırmaktadır. Feminist duruş kuramı, bilginin sosyal olarak konumlandırıldığını ileri sürer. Kadınlar gibi marjinalleştirilmiş grupların, yaşadıkları deneyimler nedeniyle sosyal ve siyasi meselelerin benzersiz bir şekilde farkında olduklarını iddia eder. Bu teoriye göre, araştırma bu marjinalleştirilmiş bireylerin bakış açısından başlamalıdır. Bu sayede önyargılar ele alınabilir ve daha adil bir topluma ulaşılabilir. Özünde, bilimsel araştırmanın geleneksel nesnelliklerine meydan okur ve farklı perspektiflerin önemini vurgular. Bu bağlamda makalede, kadınların sorunlarının ele alınmasında kanıtlardan etkilenen politikaların önemini vurgulamaktadır. Konuya ilişkin incelemeler yaparken Türkiye'nin toplumsal cinsiyet eşitsizlikleri ile mücadelede kaydettiği ilerlemeyi örneklerle paylaşacağız. Makalede, Türkiye'de kadın hakları alanında kaydedilen ilerlemeleri geriletme isteyen erkek hakları hareketinin muhalefeti de değerlendirilmektedir. Ancak,

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özellikle mal paylaşımı düzenlemelerine ilişkin argümanlarının kanıta dayanmaktan ziyade ideolojik olduğunu savunmaktadır. Makalemizde, ev içi emekçilerin sorunlarına olumsuz etkisi olan birçok unsurdan biri olan yasal mal rejimine odaklanacağız. Çözüm olarak da Medeni Kanun'da bazı değişiklikler önereceğiz.

Anahtar Kelimeler

Ev İçi Emek, Ücretsiz Emek, Ev Hanımları, Cinsiyet Eşitsizlikleri, Yasal Mal Rejimleri

Extended Summary

This paper addresses the persistent problems faced by women in domestic labour due to inherited inequalities. As a well-known form of unpaid and undervalued labour, domestic labour is common in many countries. A significant proportion of domestic labour is performed by housewives. This is the substance of uncertainty experienced by housewives who grapple with uncertainty throughout their lives without proper social security, stable income and retirement plans. Law plays a predominant role in changing such social inequalities as a functional tool for improving society.

In this article, we discuss how law can provide remedies to rectify domestic labour problems. This paper argues that legal reforms are needed to address this problem and focuses on changing matrimonial property regime articles within the Turkish Civil Code. The pervasive nature of unpaid domestic labour, predominantly carried out by women, is underscored, along with its adverse impact on women's safety and dignity.

Drawing on feminist theory, this article explores how scientific methods can contribute to understanding and redressing domestic labour problems. This thesis critiques the concept of objective research, firmly arguing that science has historically neglected women's experiences and perspectives. It strongly advocates for the inclusion of the perspectives of oppressed groups, particularly women, in research to provide a more nuanced understanding of social issues such as domestic labour.

This article discusses the paramount significance of evidence-influenced policies in addressing women's problems, emphasising the need for qualitative research to capture the complexities of these issues. This acknowledges the pivotal role of the women's movement in generating evidence and influencing policy changes, citing compelling examples from Türkiye, where progress has been made on women's rights.

This paper proposes critical amendments to the Turkish Civil Code to alleviate the burden of domestic labour on women, especially in cases of divorce. The evaluation evaluates the effectiveness of the current property division regime. The article also notes the opposition of the men's rights movement, which seeks to roll back the progress made in the field of women's rights in Turkey. However, the study argues that their arguments, particularly in relation to property division laws, are primarily ideological rather than evidence-influenced.

The women's movement criticised the former legal regime's division of property rights, advocating that women should claim property acquired during marriage due to their unpaid domestic labour. While this change is an improvement, we question whether it truly achieves the intended goal. For instance, grant a claim on marital property to a spouse who devotes significant time to household matters align with the desired outcome? An illustrative example can shed light on this issue. Although it is not a scientifically proven phenomenon, in practise, there is a widespread example of men acquiring property before marriage with bank loans not in their name to avoid any legal claims because the debt was paid during the marriage; thus, the property was acquired during the marriage.

The proposed amendments to the Turkish Civil Code aim to prevent men from exploiting legal loopholes, such as acquiring property shortly before marriage, to avoid equitable distribution during divorce proceedings. In addressing legal loopholes that benefit men by amending relevant laws, such as Turkish Civil Code article 220/1.2, we can regulate presumptions like "...Properties that belonged to one of the spouses at the beginning of the property regime can be accepted as personal properties as per law only if they are not deliberately acquired right before the beginning of the property regime. In case of paying the debts of such acquisitions during marriage, it shall be accepted as an indicator of such deliberate actions." regarding deliberate acquisitions of men made before marriage with loans not in their names to prevent any legal claim.

Issues experienced by women due to legal loopholes can constitute a basis for amendments only if they are detected in scientific research. Therefore, evidence-influenced policies are crucial for improving the quality and number of such presumptions. We emphasise the critical importance of evidence-influenced policies in developing effective legal solutions to women's problems and advocate for data collection from divorced women to inform policy decisions.

Overall, this study comprehensively analyzes the challenges that women face in domestic labour and property division. It strongly advocates for legal reforms in the Turkish Civil Code, informed by feminist standpoint theory and evidence-influenced policies to address these issues and promote gender equality.

Introduction

Exclusion from the welfare system because of inherited inequalities for women in the form of domestic work affects a general sense of security and a life that befits human dignity¹. In this essay, the issue is examined, and possible legal solutions are sought with the help of science. Specifically, we will argue for an amendment to the matrimonial property division article to solve one of the many problems caused by the long-ignored burden of domestic labour for women.

Domestic labour, a well-known form of unpaid labour, is widespread in many countries. Traditionally, household chores are performed by housewives without any compensation. Our misperception leads to an underestimation of the actual value of domestic labour derived from the widespread acceptance that women should perform most household tasks².

No matter what country or how developed they are, one thing is certain: most domestic labour is performed by women³. As mentioned above, women can be housewives or have paid jobs, but most of their active hours are spent on household tasks⁴. In the example of Ghanaian women, even if they are working, only one-third of their time is devoted to their paid job, almost the same portion of the time they spend cooking and caring for children⁵. The rest of their time is still spent on household matters, like cleaning the house and washing clothes and dishes. The same applies to Turkey. Women cover all household matters except paying bills and small repair jobs⁶.

Although many argue that domestic labour can be beneficial for the economy and contribute to society, it is quite a challenging form of life for women⁷. Statistical data show that most domestic labour is performed without payment or is far below the minimum wage⁸.

¹ Adelle Blackett, 'The Decent Work for Domestic Workers Convention, 2011 (No. 189) and Recommendation (No. 201), Introductory Note' (2014) 53(1) International Legal Materials 250, 266 <<http://www.jstor.org/stable/10.5305/intelegamate.53.1.0250>> Date of Access 21 Nov. 2023.

² Martin Oelz, 'Remuneration in domestic work' (Domestic Labor Policy Brief No.1, International Labour Organization) <https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_155654.pdf> Date of Access 21 Nov. 2023.

³ José Maria Ramirez-Machado, *Domestic work, work conditions, and employment: A legal perspective*, 1st ed. ILO 2003) 44.

⁴ Gimenez-Nadal, J. I. & Molina, 'The gender gap in time allocation' (2022) IZA World of Labor 497 <<https://doi.org/10.15185/izawol.497>> Date of Access 29 Nov. 2023.

⁵ Ghana, Ghana Living Standards Survey 6 (With a Labour Force Module) 2012-2013, Round Six <<https://www2.statsghana.gov.gh/nada/index.php/ddibrowser/72/export?format=pdf&generate=yes>> Date of Access 21 Nov. 2023.

⁶ TÜİK, 'Türkiye Aile Yapısı Araştırması' (01.04.2022) <<https://data.tuik.gov.tr/Bulten/Index?p=Turkiye-Aile-Yapisi-Arastirmasi-2021-45813&dil=1>> Date of Access 30 Nov. 2023.

⁷ According to the OECD report, the economic value of unpaid domestic work is around 15% of the member states' GDP. OECD, 'Bringing Household Services Out of the Shadows: Formalising Non-Care Work in and Around the House' in Gender Equality at Work (OECD Publishing, Paris, 2021) <<https://doi.org/10.1787/fbea8f6e-en>> Date of Access 21 Nov. 2023.

⁸ Gaëlle Ferrant, Luca Maria Pesando, and Keiko Nowacka, "Unpaid Care Work: The Missing Link in the Analysis of Gender Gaps in Labour Outcomes" (2014) <https://www.oecd.org/dev/development-gender/Unpaid_care_work.pdf> Date of Access 21 Nov. 2023.; Mustafa Gültekin, 'Türkiye'de Ücretli ve Ücretsiz Emek Ekseninde Kadınlarla Erkeklerin Hem Kendi İçlerindeki Hem de Kendi Aralarındaki Eşitsizlikler' (2022) 14 Fe Dergi 33-55 <http://federgi.ankara.edu.tr/2022/12/12/28_3/> Date of Access 30 Nov. 2023, 33 49,50.

Living without adequate social security, regular income, and retirement plans creates an uncertain life. This uncertainty is also a result of the division of marital property, which should be better described to overcome the problems faced by women. Law, as a functional tool for transforming society, has the function of changing social inequalities.

I. In Search of To-the-point Legal Remedies: Harnessing the Critical Insights of Feminist Standpoint Theory

To what extent can law offer remedies to fix domestic labour problems, and how can scientific methods contribute to it so we can make to-the-point regulations? In this case, acquiring relevant data is necessary for conducting proper research.

By proper research, we mean objective research. The objectivity of scientific research is understood by scientists differently. As Weber and many other social scientists have argued, values should not be a part of research after deciding on a topic⁹. For them, it is necessary to preserve the objectivity of scientific research by excluding subjective elements.

Feminist social scientists argue that in the name of retaining objectivity, science is blind to the many problems experienced by women¹⁰. According to feminist standpoint theory, due to the androcentric structure of science, women are not included in scientific research as researchers or the focus of such studies¹¹. Because science aims to achieve knowledge by using scientific methods objectively, the white male dominant nature that alters the objectivity of science should not be ignored and accepted as a fact¹². As a remedy, feminist standpoint theory features three theses aimed at correcting the uneven situation. The situated knowledge thesis offers relativity as a widening perspective to notice what is invisible to people in a social location of “non-others”¹³. The epistemic privilege thesis emphasises the importance of perceiving the functioning of social structures by the oppressed and noting that becoming an oppressed person is not automatic but rather involves sharing common sense with oppressed people¹⁴. Being able to share common sense allows us to achieve the thesis. The achievement thesis suggests that a weaker position in a given

⁹ Julian Reiss and Jan Sprenger, ‘Scientific Objectivity’ *The Stanford Encyclopaedia of Philosophy* (Winter 2020 Edition), Edward N. Zalta (ed.), URL = <<https://plato.stanford.edu/archives/win2020/entries/scientific-objectivity/>> Date of Access 1 Dec. 2023.; Elenora Montuschi, ‘Scientific Objectivity’ in Nancy Cartwright & Eleonora Montuschi (eds), *Philosophy of Social Science: A New Introduction* (Oxford University Press 2014), 129.

¹⁰ Crasnow, Sharon. 2014. “Feminist Standpoint Theory.” In Nancy Cartwright & Eleonora Montuschi (eds), *Philosophy of Social Science: A New Introduction* (Oxford University Press 2014). 3, 147, 155.

¹¹ Crasnow (n 10) 146-147.

¹² Crasnow (n 10) 146.

¹³ Donna Haraway. “Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective” (1988) 14 *Feminist Studies* 575–99 <<https://doi.org/10.2307/3178066>> Date of Access 27 Mar. 2024 575 580, 589.; Crasnow (n 10) 147.

¹⁴ Simandan, Dragos. 2019. “Revisiting positionality and the thesis of situated knowledge’ (2019) 9(2) *Dialogues in Human Geography* 129-149 <<https://doi.org/10.1177/2043820619850013>> Date of Access 27 Mar. 2024.; Haraway (n 12) 576, 586.; Crasnow (n 10) 149.

situation makes a person more inclined to comprehend power relations more easily¹⁵. Thus, during scientific research, researchers become more capable of criticising and understanding the limitations or advantages of a given situation.

Domestic labour is a remarkable example of the importance of feminist standpoint theory. It was ignored by the scientists investigating labour, but it was not invisible. In fact, domestic labour was explicitly excluded from the scope of labour codes due to the acceptance that it was considered natural because of social gender roles. The actual remarks on its importance began to be stated in court decisions and, for instance, began to be considered an economic value in the division of matrimonial property. This change happened because of the efforts of feminist standpoint theory. This approach provides knowledge that serves the interests of not only women but, like any other scientific advancement, also serves the common good. Perhaps stretching but still valid, we can say that acceptance of domestic labour also serves men when deciding on the future of their marriage without the concern of social pressure. A fair divorce regime might prevent people from saying, “How can you live when someone serves only you and who has no work, etc.”

Feminist social scientists point out that the problems inherited over generations by women allow us to conduct unbiased research by presenting the fact that a godlike point to provide objective information is not possible. Therefore, the information provided by a group of people defined by their shared values, which is formed because systematic discrimination is meaningful, can be considered objective.

One inherited injustice by women is that women’s voices mostly stay unheard due to testimonial inequalities caused by Weber and other scientists’ understanding of objectivity, as mentioned earlier. In this case, not listening to or ignoring women’s voices regarding their problems would constitute a form of testimonial injustice¹⁶. Testimonial injustice and feminist standpoint theory intersect in this sense.

To define problems experienced mostly by housewives, which form in terms of methodological collectivism, we need objective insiders from the epistemically privileged ones offered by feminist standpoint theory¹⁷. We will defend the necessity of using this information to develop evidence-influenced policies for the issue.

Accepting the superiority of the information produced based on the source of insiders can raise doubts about the objectivity of the ranking values of the sources. This is one of the main critiques for the feminist approach.

¹⁵ Crasnow (n 10) 149, 159.

¹⁶ Miranda Fricker, ‘Testimonial Injustice’, *Epistemic Injustice: Power and the Ethics of Knowing* (Oxford, 2007; online edn, Oxford Academic, 1 Sept. 2007), <<https://doi.org/10.1093/acprof:oso/9780198237907.003.0002>> Date of Access 18 Dec. 2023.

¹⁷ Crasnow (n 10) 148-149.

Although it sounds very reasonable to raise such a concern, it does not remedy the need for such an insider. To give equal importance to different sources, we must accept a male equally valid and reliable source as a female on matters like domestic labour. This would mean that what that person is saying, “Living a life under the circumstances in discussion,” must be equally important to a male who has never experienced that way of life in person.

Another way to discuss the objectivity of the information produced by epistemically privileged individuals is to ask the question of to what extent objectivity can be preserved. The influence of our values is so significant that it is possible to transform a subjective claim into a scientific one¹⁸. However, peer review can be a solution to this problem.

Different scientists can always check with each other if they follow the leading scientific research principles, such as clearly describing the methodology and source of data and how it is collected. Thus, it is possible to overcome this possible problem.

II. Evidence-Influenced Policies for Women’s Domestic Labour Problems

To make to-the-point legal changes, we need evidence-influenced policies. I avoid using the common phrase ‘evidence-based policy’ because it can be misleading. For the purpose of this paper, I will not discuss this matter extensively. However, briefly, I want to share the main reason. Evidence-influenced policies express our ideal of rational governance decision-making processes. It prevents ideologically driven policies. However, policies are based on political decisions because we do not aim for the total elimination of ideologies in our policy-making process. For instance, we still have political parties separated mainly by ideology, racing to rule the country by claiming that their ideologies are superior. Because of this fact, policymaking processes are usually only partially based on evidence.

We must conduct well-designed research to generate evidence on women’s problems, which we aim to use to influence the policies that eventually result in legislation that is aligned with the outcomes. This research must be qualitative rather than quantitative because quantitative data can be misleading¹⁹. Additionally, as we have argued above, the need for data from epistemically privileged entities, which emphasise the importance of quantitative data, is crucial for the objectives of our to-the-point legal remedies. For years, the women’s movement has contributed to

¹⁸ Douglas, Heather. 2014. “Values in Social Science” in Nancy Cartwright & Eleonora Montuschi (eds), *Philosophy of Social Science: A New Introduction* (Oxford University Press 2014) 170.

¹⁹ Munro, E. 2014. ‘Evidence-Based Policy’ in Nancy Cartwright and Eleonora Montuschi (eds), *Philosophy of Social Science: A New Introduction* (Oxford University Press 2014), pp. 58-60.

the escalation of research on women's issues, especially conducting qualitative research²⁰.

Similar to the number of problems experienced by women, evidence for policymaking for domestic labour problems is plentiful thanks to the strong women's movement. The problem is how we use them. It is possible to argue that the evidence-influenced policymaking process is changing things and favouring women in Türkiye.

Türkiye has witnessed remarkable progress in women's rights in the last 30 years. To achieve gender equality and create the same opportunities for women as men, Türkiye abolished several legal barriers for women from being involved in work life and regulated positive discriminative opportunities for women.

As an example of removing legal barriers that allow women to work, the annulment of husbands' approval to work for women was remarkable. In the early 1990s, mass demonstrations against the former civil code article, which mandated husbands' approval for women to work, succeeded in this outstanding achievement. The code was annulled by the decision of the Constitutional Court of the Republic of Türkiye for breaching the Constitution of the Republic of Türkiye article 10, equality before the law, article 17, personal inviolability, corporeal and spiritual existence of the individual, and Article 49 right and duty to work²¹.

A recent example of this progress is the Council of Higher Education of Türkiye's announcement of a special quota for university admissions for women over 34²². As we know, getting a higher education gives you a higher chance of finding a paid job. This positive discrimination creates educational opportunities for women.

These examples illustrate a positive trend to overcome inherited inequalities by women in Türkiye. A wide range of women's problems can be addressed by identifying possible solutions. However, in this paper, I will focus on the problems experienced by women because of divorce.

III. A Modest Proposal to Ease the Heavy Burden of Domestic Labour: Amendments Proposed for the Turkish Civil Code

Because of women's unpaid labour, while husbands earn money by devoting time to their paid work, women's time spent on household matters finds no remuneration. Due to this fact, in divorce, property division is likely to result in favour of the

²⁰ Duygu Alptekin, 'From Street to Academy: Institutionalism Process of Woman's Movement' (2011) 26 Selçuk Üniversitesi Sosyal Bilimler Enstitüsü Dergisi 33, 38.

²¹ Anayasa Mahkemesi, 1990/30, 29.11.1990.

²² YÖK, 'Yükseköğretim Kurulundan 34 yaş üstü kadınlara devlet üniversitelerinde özel kontenjan' (08.03.2023) <<https://www.yok.gov.tr/Sayfalar/Haberler/2023/34-yas-ustu-kadinlara-devlet-universitelerinde-ozel-kontenjan.aspx>> Date of Access 30 Nov. 2023.

spouse²³. To prevent this, in 2002, the Turkish Civil Code changed the legal regime to participation in acquired properties, which meant that spouses would receive half of the properties acquired during marriage in cases of divorce. Before 2002, the legal regime was property division. In divorce, if the property division regime is enforced, each spouse retains their property regardless of when it is acquired.

As mentioned, the current legal matrimonial property regime is participation in acquired properties. However, to what extent did it achieve the objectives of the change? It is still under discussion. First, we will present the arguments of the side that claims that this regime is giving more than women deserve.

Then, we will share the arguments favouring the current legal regime and defend their arguments. In addition, we will try to find an answer to the question of to what extent evidence-influenced policies can be used to improve the current situation.

Türkiye's withdrawal from the Istanbul Convention was the breaking point of the men's right movement in Türkiye. They began to raise their voices against gender equality and the achievements of women's rights. Claiming that all is a setback to traditional Turkish family life. Furthermore, they have started to strike every achievement for women in the last few decades. Their emphasis on traditional Turkish family life points to Sharia. In Sharia, the matrimonial property regime is closer to property division. Because their main reason for policymaking push is purely ideological, it is difficult to find a reasonable point to accept their arguments.

The women's movement criticised the former legal regime's "property division." Because women's unpaid domestic labour made it possible for their husbands to make money and acquire more property, they argued that women should also claim the property acquired during their marriage. Because their arguments are based on evidence, we agree with them. However, we would like to challenge the success of the new legal regime.

Although the change in the legal matrimonial property regime is an improvement for women, who often devote a significant portion of their time to household matters, it remains uncertain whether this change fully achieves its intended goals. To explore this, we examine a real-life phenomenon that has been the subject of many disputes.

Typically, many men purchase houses and cars shortly before marriage and continue to pay off their debts after marriage. Under Article 220 of the Turkish Civil Code, property acquired before marriage is deemed personal property. If the payments for such property are made from assets acquired during marriage, as outlined in Article

²³ Şükran Şıpka, 'Edinilmiş Mallara Katılma Rejiminin Yasalaşma Süreci ile Yürürlüğüne İlişkin Sorunlar' in Şükran Şıpka & A. Barış Özbilen & Ebru Şensöz (eds), *Uygulamalı Aile Hukuku Sertifika Programı III. Dönem: Edinilmiş Mallara Katılma Rejimi ve Uygulama Sorunları*, 17-18 Kasım 2006 (İstanbul Üniversitesi Yayınları 2007), 5-6, 12.

219 of the Turkish Civil Code, women may have a legal basis to claim participation receivable on the portion of the debt paid during marriage. This situation places a significant burden on women in terms of proving their claims for a portion of the debt paid during their marriage, as they must prove that their husband was responsible for paying the debt during the marriage.

The well-reasoned judgments of the Supreme Court of Cassation of the Republic of Türkiye (the Court of Cassation) resolved such cases in favour of women, ruling that the paid portion of bank loans paid during marriage should be considered as the amount to be divided into two when calculating the participation receivable for women²⁴.

The Court of Cassation's judgments have led men to seek legal loopholes. As a result, to avoid any legal claim, men refrained from taking bank loans in their own names, instead declaring them on paper as debts paid by people close to them, such as their parents. This tactic has proven advantageous to men. The Court of Cassation ruled that the amount the defendant's father paid for the sale price should be deducted from the house's value when calculating women's participation receivables²⁵.

How can we prevent men from benefiting from such legal loopholes? It is possible to argue that we should switch to a joint property regime as the legal matrimonial property regime, which can be a remedy for this because it can offer an equal division of all properties. However, we suggest a different solution.

²⁴ Yargıtay 8 HD, 6921/3949, 05.07.2011 "The disputed residence was acquired on 08.05.2007, before the parties' marriages on 09.09.2007. It is observed that the long-term bank loan taken out by defendant H. Ü. with a credit agreement dated 03.05.2007 was used to purchase the house. In this respect, it must be accepted that the loan instalments paid between the marriage date of 09.09.2007 and the date the divorce case was filed, 22.01.2008, constitute a contribution from the acquired property of the defendant's husband to his personal property. Therefore, the amount transferred from the acquired property to personal property during the specified period should be determined, the ratio of this amount to the market value of the property as of 22.01.2008 should be detected, and the value increase created by this amount in the house should be considered. The determined ratio should then be multiplied by the actual value of the house, to be determined near the date of the court decision, and the resulting amount should be awarded to the plaintiff as half of the participation receivable in the acquired property, in accordance with Articles 231 and 236 of the Turkish Civil Code."; Yargıtay 8 HD, 9786/7968, 24.04.2014 "The plaintiff's attorney stated that some of the loan payments related to the property acquired by the defendant before marriage were made within the marital union, ... and requested that 4.000 TL be collected from the defendant for these loan payments. The defendant's attorney argued that the disputed house was purchased with a bank loan long before the marriage date, that the loan payments were made by their client, and that the property was a personal asset, ... and requested the dismissal of the case. The court dismissed the case regarding the alleged contribution to the property because it could not be proved. As for the appeal of the plaintiff's attorney regarding the bank loan payments for the property acquired in the defendant's name before marriage... The property in question was purchased and registered in the defendant's name before the marriage date. A bank loan covered part of the sale price, and the loan payments were continued within the marital union. The task of the court is to evaluate the bank loan statements and documents related to the payment process for the purchase of the disputed property, to properly determine the amount of loan repayments made during the marital union, to detect the plaintiff's participation receivable arising from the loan payments in the disputed property, and to render a judgement accordingly. For the reasons explained above, the appeal objections of the plaintiff's attorney are accepted..."

²⁵ Yargıtay HGK, 8-192/629, 26.09.2012; It should be noted that in the absence of proof that the defendant's parents made the payments, the Court of Cassation will assume that the payments were made by the spouses themselves. Yargıtay 8 HD, 16903/9216, 13.03.2018 "... the property was acquired through membership in a cooperative, with payments made both before and during the marriage. Given that there is no evidence that the defendant's father made the payments, it should be accepted that the plaintiff has a participation receivable due to the payments made during the marital union."

Legal remedies can be created for problems experienced by women in participation in the acquired property regime. Conducting scientific research to create a foundation for developing evidence-influenced policies, like collecting data from divorced women on the issue, can be achieved. However, we should not disregard the myriad of factors possibly affecting the responses of divorced women²⁶.

After collecting relevant data, we should classify them to regulate extensive presumptions on accepting acquisitions that benefit from legal loopholes in the scope of the regulations, like amending the Turkish Civil Code article 220/1.2, which states that “*The following shall constitute personal properties as per law: ... 2. Properties that belonged to one of the spouses at the beginning of the property regime, properties that one of the spouses inherited subsequently, or properties acquired in an unrequited manner...*”. We think that if we add a clause like “...Properties that belonged to one of the spouses at the beginning of the property regime can be accepted as personal properties as per law only if they are not deliberately acquired right before the beginning of the property regime. In case of paying the debts of such acquisitions during marriage, it shall be accepted as an indicator of such deliberate actions.” as a following sentence, we would be able to solve the issue in our example of men buying properties right before marriage if it is a widespread problem experienced by women according to scientific data. The presumptions’ number and quality can only improve if they derive from evidence-influenced policies.

Conclusion

In conclusion, the issue of domestic labour and its impact on women’s welfare and rights is a multifaceted problem that requires careful consideration and targeted legal solutions. Throughout this review, we have focused on the complexity of domestic labour, feminist standpoint theory, evidence-informed policymaking, and proposed amendments to the Turkish Civil Code as potential remedies.

Amendments to the Turkish Civil Code suggested in this article aim to prevent men from benefiting from legal loopholes. In practise, such actions occur, for example, acquiring assets just before marriage to avoid equitable distribution in divorce. The article emphasises the importance of evidence-influenced policies in crafting effective legal remedies for women’s issues and advocates for collecting data from divorced women to inform policy decisions.

Evidence-informed policymaking is essential for meaningful change in addressing women’s domestic labour issues. Policymakers can better understand women’s lived experiences and develop targeted interventions by conducting qualitative research and collecting data from epistemically privileged individuals. However,

²⁶ Munro (n 18) 60.

it is crucial to recognise that policymaking is inherently political and ideological. Evidence-influenced policies cannot completely eliminate the influence of different perspectives and interests. However, it can provide ground for better lawmaking by prioritising scientific research.

Overall, addressing the challenges posed by women's domestic labour requires a holistic approach that combines legal reforms, evidence-influenced policymaking, and a commitment to gender equality. By centring on women's experiences, challenging entrenched prejudices, and enacting targeted legislative solutions, societies can achieve greater equality and dignity for all individuals, regardless of gender.

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