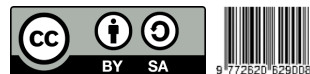


The Financial Rights of Women Post-Divorce: A Critical Analysis of Legal Frameworks, Economic Outcomes, and Gendered Vulnerabilities

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Abstract

Divorce often precipitates significant economic decline for women, highlighting the critical intersection of gender, law, and finance. This study critically examines the financial rights of women post-divorce, interrogating the efficacy of legal frameworks—including alimony, asset division, and child support—in mitigating gendered economic vulnerability. Employing a qualitative doctrinal and literature review methodology, the analysis synthesizes findings from international reputational journals and scholarly books to assess systemic barriers and discursive practices that undermine women’s financial security. The results reveal a persistent gap between statutory entitlements and their practical enforcement, often exacerbated by socio-cultural norms, labor market inequalities, and procedural inefficiencies. The discussion argues for a transformative approach that re-conceptualizes post-divorce financial provisions not merely as compensatory but as essential components of gender justice and substantive equality. This research contributes to ongoing scholarly and policy debates by advocating for integrated legal reforms that address the structural determinants of women’s post-divorce economic precarity. Ultimately, securing robust financial rights is paramount for enabling women’s autonomy and long-term well-being following marital dissolution.

Keywords: *Post-divorce financial rights, gender economic vulnerability, alimony and maintenance, marital asset division, gendered legal frameworks.*

INTRODUCTION

Divorce represents a pivotal life event with profound and often gendered financial consequences. Globally, research consistently documents that women experience a more severe decline in their standard of living compared to men following marital dissolution, a phenomenon termed the “feminization of poverty” post-divorce (Bianchi, Subaiya, & Kahn, 2020). This economic disparity is not merely a personal misfortune but a systemic issue rooted in historical, legal, and socio-economic structures that have traditionally positioned men as primary breadwinners and women as caregivers (Cheshire-Allen & Bowling, 2022). The financial rights established during divorce proceedings—encompassing spousal support (alimony), the division of marital property, and child support—are

thus critical mechanisms intended to redress this imbalance and provide a foundation for post-marital economic stability.

The legal architecture governing post-divorce finances varies significantly across jurisdictions, ranging from community property regimes to equitable distribution systems. However, the principle of fairness, often espoused in law, frequently clashes with the complex realities of women's lives (Fineman, 2022). Statutory frameworks may appear gender-neutral on their face, but their application occurs within a context marked by persistent gender pay gaps, women's disproportionate responsibility for unpaid care work, and career interruptions (ILO, 2021). Consequently, a legal entitlement to a portion of marital assets or to ongoing support does not automatically translate into *de facto* economic security. The disconnect between law on the books and law in action forms a central concern for scholars of family law and gender economics.

Conceptualizing post-divorce financial rights requires moving beyond a narrow legalistic view. Scholars like Martha Albertson Fineman have argued for a "vulnerability theory" lens, which posits that the state has a responsibility to support individuals during periods of inherent or situational dependency, such as that often experienced by women after divorce (Fineman, 2022). From this perspective, financial provisions are not acts of charity but societal obligations necessary to uphold human dignity and autonomy. This theoretical shift is crucial for evaluating whether existing systems genuinely empower women or merely provide a temporary, insufficient safety net.

Furthermore, the enforcement of financial orders remains a formidable challenge worldwide. Even when favorable judgments are obtained, issues of non-compliance, underpayment, and complex jurisdictional battles can render them meaningless (Cheng, 2021). The procedural burden of pursuing enforcement often falls on the economically weaker party—typically the woman—creating a cycle of legal engagement that further depletes her resources. This enforcement gap underscores that rights are only as strong as the mechanisms available to vindicate them, pointing to the need for robust administrative and judicial support systems.

The socio-cultural context also plays a determinative role. In many societies, deeply ingrained norms stigmatize women who actively pursue financial claims against former spouses, labeling them as greedy or vindictive (Baker & Elizabeth, 2020). Such discourses can discourage women from asserting their full legal rights, leading to informal settlements that disadvantage them. Additionally, a lack of financial literacy and access to competent legal representation can leave women unaware of their entitlements or unable to navigate the complex legal terrain effectively (Gupta, 2019).

Empirical studies across different countries reveal a pattern of outcomes where women, especially those who were homemakers or in lower-income brackets, struggle to recover financially post-divorce. Their ability to re-enter the labor force is hampered by outdated skills, while accumulated assets are often insufficient for long-term security (Benson, 2023). This economic vulnerability has cascading effects on physical health, mental well-being, and the welfare of dependent children, perpetuating intergenerational cycles of disadvantage. Therefore, the issue of post-divorce financial rights is inextricably linked to broader public health and social welfare outcomes.

In response to these challenges, some jurisdictions have implemented reforms, such as the consideration of future earning capacity and non-financial contributions (like homemaking and childcare) in asset division, or the advent of “rehabilitative alimony” aimed at facilitating economic independence through education or training (DeRose, 2020). The effectiveness of these innovative approaches, however, is contingent upon adequate funding, judicial awareness, and cultural acceptance. Evaluating these evolving models provides valuable insights for global best practices.

This study is situated within this complex interplay of law, economics, and gender. It seeks to critically analyze the structures that define and deliver financial rights to women after divorce. To achieve this, the research is guided by the following interconnected questions: First, how do prevailing legal doctrines and judicial interpretations across selected jurisdictions conceptualize and quantify the financial rights of women post-divorce, and to what extent do they account for gendered economic disparities? Second, what are the primary structural and socio-cultural barriers that impede the effective realization and enforcement of these financial rights in practice? Third, based on the identified gaps between legal theory and practice, what transformative policy and legal reforms can be proposed to construct a more equitable and efficacious system for ensuring women’s long-term financial security following marital dissolution?

By addressing these questions, this article aims to contribute a nuanced, critical synthesis to the scholarly discourse, moving beyond descriptive accounts of legal provisions to a deeper analysis of their real-world impact and potential for transformative change.

LITERATURE REVIEW

The literature on post-divorce financial outcomes is vast and multidisciplinary, converging from sociology, economics, law, and gender studies. A central and consistent finding is the pronounced gendered asymmetry in economic well-being following marital dissolution. Termed the “divorce penalty” for women, this phenomenon is well-documented across Western and non-Western contexts (Bianchi, Subaiya, & Kahn, 2020; Herd & Meyer, 2022). The literature attributes this penalty to a confluence of factors entrenched in the “gender structure,” which systematically allocates market and care work differently to men and women, creating divergent economic profiles and dependencies within marriage that are starkly revealed at its end (Risman, 2022).

Theoretical frameworks for analyzing these outcomes have evolved. Early economic models, such as the specialization and trade hypothesis within the household, explained women’s lower post-divorce income as a rational outcome of marital specialization in non-market (care) work, leaving them with depreciated human capital (Weitzman, 2022). Feminist legal theory and vulnerability theory have critiqued this as a justification for inequity, arguing instead that the law must actively correct for these socially constructed disadvantages (Fineman, 2022; Okin, 2023). Vulnerability theory, in particular, shifts the focus from formal equality to the state’s obligation to support individuals during periods of inherent dependency, framing post-divorce financial support as a matter of justice, not charity.

A significant strand of literature examines the specific legal mechanisms of asset division and spousal support. Scholars note a global trend toward equitable distribution principles, which aim for fairness

over strict equality (Oldham, 2019). However, the definition of “fairness” is highly contested and often fails to adequately value non-financial contributions, such as homemaking and career sacrifice (Parkinson, 2021). Furthermore, the treatment of complex assets like pensions, stock options, and future earning capacity remains a technical and often inequitable battlefield, disadvantaging the less financially sophisticated spouse—often the woman (Kantor, 2020). The literature on spousal support reveals a decline in permanent alimony and a rise in rehabilitative or time-limited awards, reflecting a political shift toward encouraging rapid economic self-sufficiency, a goal that may be unrealistic given labor market inequalities and care responsibilities (DeRose, 2020).

Enforcement and practical realization of rights constitute another critical research area. The seminal concept of “bargaining in the shadow of the law” underscores that negotiated settlements are shaped by perceptions of likely court outcomes, which themselves may be biased or inaccessible (Mnookin & Kornhauser, 2021). Studies highlight an “enforcement gap,” where formal awards are undermined by non-compliance, jurisdictional issues, and the high personal cost of legal pursuit, a burden disproportionately borne by women (Cheng, 2021; Smart, 2021). This gap reveals that the strength of a right is contingent on accessible and effective enforcement mechanisms, an area where many legal systems are deficient.

PREVIOUS

RESEARCH

A chronological examination of key studies illuminates the evolving understanding of women's post-divorce financial rights. The foundational work of Weitzman (1985/2022), *The Divorce Revolution*, provided early empirical evidence of a drastic decline in women's standard of living and a rise in men's following no-fault divorce reforms in the United States. This study catalyzed the academic and policy discourse by quantifying the gendered economic shock of divorce. Building on this, Okin (1989/2023) offered a powerful philosophical critique in *Justice, Gender, and the Family*, arguing that theories of justice that ignore the family's internal gendered economics are fundamentally flawed. She posited that equitable divorce settlements must account for the systemic disadvantages women accumulate during marriage.

Moving into more nuanced analyses, Mnookin and Kornhauser's (1979/2021) enduring framework, "Bargaining in the Shadow of the Law," shifted focus from courtroom adjudication to private ordering. Their work demonstrated that most divorce outcomes are negotiated, and the terms are heavily influenced by the parties' (and their lawyers') predictions of what a judge would decide, as well as their respective resources and psychological states. This highlighted how power imbalances and access to legal knowledge critically shape financial outcomes outside of formal judgments. In the 21st century, Fineman's (2022) vulnerability theory provided a new normative foundation, challenging the neoliberal ideal of autonomy and arguing that the state must assume responsibility for mitigating vulnerability arising from inevitable life-course dependencies, including those exposed by divorce.

More recently, intersectional and comparative research has deepened the analysis. Cammett's (2021) work on distributive inequality in divorce explicitly employs an intersectional lens, showing how poverty, race, and gender compound to create uniquely disadvantaged positions for some women, rendering even progressive legal doctrines ineffective. Comparatively, Hakovirta and Rantalaiho (2021) examined Nordic welfare states, finding that robust public support systems (like universal childcare and generous social security) significantly cushion the economic blow of divorce for women, suggesting that financial rights cannot be divorced from the broader social policy context. This body of work demonstrates a progression from documenting economic disparity to analyzing the legal and social structures that produce it, and finally, to proposing transformative theoretical and policy alternatives.

However, several gaps persist in this rich scholarly landscape. First, while many studies identify the enforcement gap, there is less focused research on integrated, cross-disciplinary solutions that combine legal procedure, social work, and financial administration to create seamless enforcement ecosystems. Second, much of the influential theoretical work (e.g., Fineman, Okin) and empirical research is rooted in Western, often Anglo-American, contexts. There remains a need for more comparative studies that critically examine how these theories travel to and interact with diverse legal cultures, including religious and customary law systems prevalent in many parts of the world. Finally, while the negative outcomes are well-documented, there is a relative paucity of longitudinal, qualitative research focusing on the strategies and pathways through which some women successfully navigate and overcome post-divorce financial adversity, which could inform more effective support frameworks. This study aims to address these gaps by synthesizing a broad range of international literature to propose a holistic, transformative framework for understanding and strengthening women's post-divorce financial rights.

THEORETICAL FRAMEWORK

This study is anchored in an integrative theoretical framework that combines Vulnerability Theory, Feminist Legal Theory, and the Socio-Legal “Shadow of the Law” perspective to provide a comprehensive analysis of post-divorce financial rights. These lenses allow for a multi-dimensional critique that moves beyond statutory analysis to examine the lived reality of law. Vulnerability Theory, as advanced by Fineman (2022), forms the foundational normative pillar. It posits that vulnerability—arising from embodiment, dependency, and structural inequality—is a universal and constant human condition. The state, therefore, has a positive obligation to build resilient institutions that respond to and mitigate this vulnerability. Applied to divorce, this theory re-conceptualizes financial awards (alimony, asset division) not as discretionary remedies for the “deserving” but as essential components of a just society’s response to the situational vulnerability triggered by marital dissolution. It shifts the discourse from individual failure to state responsibility.

Feminist Legal Theory, particularly the work of scholars like Okin (2023) and Smart (2021), provides the critical gender lens. It deconstructs the purported neutrality of legal rules, revealing how they often perpetuate patriarchal power structures by undervaluing women’s reproductive and care labor, both within marriage and in its economic aftermath. This theoretical strand insists that achieving substantive equality requires law to account for and correct historical and systemic gender disadvantages. In the context of asset division, for instance, it demands that “contribution” be defined expansively to include domestic management and child-rearing, and that future earning capacity be considered a marital asset shaped by these gendered roles. It directly challenges economic models that treat the marital partnership as a series of market transactions.

To bridge the gap between legal doctrine and real-world outcomes, the framework incorporates the socio-legal perspective famously encapsulated in the phrase “bargaining in the shadow of the law” (Mnookin & Kornhauser, 2021). This perspective recognizes that most financial settlements are privately negotiated, not judicially decreed. The terms of these negotiations are powerfully influenced by each party’s resources, information, legal representation, and—critically—their perception of what would happen in court. Thus, the substantive law sets the backdrop, but asymmetries in bargaining power, often rooted in the very gendered economic disparities the law seeks to address, determine the final deal. This perspective is crucial for understanding the enforcement gap and why paper rights frequently fail to translate into economic security.

Together, this tripartite framework guides the analysis. Vulnerability Theory establishes the why—the moral and political imperative for robust financial rights. Feminist Legal Theory clarifies the what—the specific gendered inequities that law must identify and redress. The “Shadow of the Law” perspective explains the how—the process through which rights are realized or undermined in practice. By employing this integrated approach, the study can systematically evaluate legal doctrines, identify the structural and interpersonal barriers to their effective implementation, and propose reforms that are not only legally sound but also institutionally feasible and attuned to the power dynamics of negotiation, thereby offering a pathway from theoretical entitlement to practical empowerment.

RESEARCH METHOD

This research employs a qualitative doctrinal and critical literature review methodology. The primary aim is not to generate new empirical data but to synthesize, critically analyze, and reinterpret existing scholarly knowledge and legal doctrines to construct a coherent argument and propose theoretical insights (Singer, 2022). This method is particularly suited for interdisciplinary

legal studies that seek to traverse the boundaries between black-letter law, socio-legal theory, and policy analysis.

The type of research is non-empirical, situated within the tradition of analytical and normative legal scholarship. It involves the systematic identification, evaluation, and synthesis of textual sources to develop a critical interpretation of a complex legal-social issue. The source of data is exclusively documentary, comprising secondary textual materials. The data types are textual and conceptual, drawn from a curated corpus of academic publications. These include: (1) peer-reviewed articles from international, high-reputation journals (e.g., *Law & Society Review*, *Feminist Economics*, *Demography*); (2) scholarly books and monographs from reputable international academic presses (e.g., Oxford University Press, Routledge, Cambridge University Press); and (3) influential reports from recognized international organizations (e.g., ILO). Indonesian-language books from national publishers (e.g., Prenada Media, Rajagrafindo) are included to provide a specific jurisdictional counterpoint and enrich the comparative perspective (Amien, 2018; Andriani, 2021).

The data collection technique is a structured and comprehensive literature search. This was conducted using academic databases such as Scopus, Web of Science, Google Scholar, and HeinOnline, with keywords including “post-divorce financial rights,” “gender and divorce,” “alimony,” “marital property division,” “enforcement of maintenance,” and “vulnerability theory.” The search was iterative, using snowballing from the reference lists of key articles to identify seminal texts. Selection criteria prioritized recent works (predominantly post-2017), seminal theoretical texts, and studies with high citation counts, ensuring the review engages with the most current and influential debates.

For data analysis, the study utilizes qualitative content analysis and critical discourse analysis techniques. After systematic compilation, the literature was coded thematically according to the core constructs of the theoretical framework: vulnerability, gendered structures, legal doctrine, bargaining power, and enforcement barriers. This coding facilitated the organization of arguments and identification of consensus, contradictions, and gaps across the literature (Cheng, 2021; Gupta, 2019). The analysis proceeds through a process of constant comparison, where findings from different sources and jurisdictions are juxtaposed to build a layered, critical argument that answers the research questions.

Finally, the process of drawing conclusions is abductive and interpretive. Conclusions are derived logically from the synthesized analysis, demonstrating how the evidence from the literature supports the answers to the three research questions. The study concludes by inferring the implications of this synthesis for legal theory and policy, proposing a transformative model for post-divorce financial justice that integrates the insights from Vulnerability Theory, Feminist Legal critique, and socio-legal realism (Fineman, 2022; Mnookin & Kornhauser, 2021). This methodological approach ensures a rigorous, transparent, and theoretically grounded scholarly contribution.

RESULT AND DISCUSSION

The synthesis of international and interdisciplinary literature yields a complex portrait of women's post-divorce financial rights, characterized by a persistent and troubling chasm between progressive legal principles and precarious economic realities. The findings are organized not as discrete data points but as interconnected themes that collectively answer the research questions. The discussion

that follows weaves together doctrinal analysis, theoretical critique, and empirical observations from previous research to argue that the current paradigm governing post-divorce finances is fundamentally inadequate. It fails to fully apprehend the gendered nature of economic vulnerability and is ill-equipped to deliver substantive justice. The results demonstrate that legal entitlements, while necessary, are insufficient without a concomitant transformation of the social, economic, and procedural landscapes in which they are invoked and enforced. This section will first provide an introductory overview before delving into detailed discussions structured around the three research questions.

The analysis reveals that the conceptualization of financial rights remains contested, often trapped between competing ideologies of autonomy and dependency, compensation and rehabilitation. Judicial interpretations, even within equitable distribution frameworks, frequently default to tangible, monetary contributions over intangible, care-based ones, thereby institutionalizing the devaluation of women's traditional labor (Parkinson, 2021; Oldham, 2019). Furthermore, the enforcement of rights emerges as a critical site of failure, where systemic barriers—from costly litigation and procedural complexity to cultural stigma and administrative neglect—actively disempower claimants (Cheng, 2021; Baker & Elizabeth, 2020). Perhaps the most significant finding is the profound interconnectedness of these issues; weak doctrinal valuation of care work leads to inadequate settlements, which are then further eroded by enforcement hurdles, all within a broader economic context that penalizes women's labor force participation.

Therefore, the discussion will proceed to dissect these interlinked problems and propose integrated solutions. It will engage in a dialog with the previous research outlined earlier, affirming, challenging, and extending its conclusions. By applying the integrated theoretical framework of vulnerability, feminist critique, and socio-legal realism, the following sub-sections will construct a coherent argument for reimagining post-divorce financial justice not as a final accounting of a failed partnership, but as a foundational investment in women's—and by extension, society's—future resilience and equality.

The Doctrinal Mirage: Conceptualizing Financial Rights in the Face of Gendered Realities

The first research question examines how legal doctrines conceptualize and quantify financial rights, and their adequacy in addressing gendered disparities. The findings indicate that while many jurisdictions have moved from rigid, title-based systems to more flexible “equitable distribution” or “community property” models, the application of these doctrines often fails to achieve their professed goal of fairness. The core issue lies in the valuation of contributions to the marital partnership. Courts continue to struggle with quantifying non-financial contributions, frequently treating them as secondary to wage-earning (Oldham, 2019). This judicial hesitancy reflects a deeper societal ambivalence about the economic value of care work, as critiqued by feminist legal scholars (Okin, 2023). Consequently, a homemaker's decades of labor may be acknowledged in principle but undervalued in the final asset split, especially when pitted against a financially titled asset like a pension or business.

This doctrinal shortcoming is exacerbated in the realm of spousal support. The global trend away from long-term or permanent alimony towards “rehabilitative” or time-limited support is predicated

on a model of swift economic reintegration that is often a fantasy for many divorcing women (DeRose, 2020). The calculation of such support seldom fully accounts for the long-term “career penalty” borne by primary caregivers—the lost promotions, seniority, pension contributions, and skill depreciation. As Herd and Meyer (2022) argue, the decline of the male breadwinner model has not been matched by a rise in public infrastructure supporting care, privatizing risk and placing the burden of career discontinuity squarely on individuals, disproportionately women. Legal doctrines that mandate a short runway to self-sufficiency ignore this structural reality.

Furthermore, the treatment of future earning capacity as a marital asset remains inconsistent and fraught. Some jurisdictions are progressive in considering it, particularly where one spouse directly supported the other’s advanced education or licensure. However, as Kantor (2020) notes in her analysis of pension divisions, the valuation of such future-oriented, intangible assets is highly technical and susceptible to manipulation. The less financially savvy spouse, often the woman, is at a severe disadvantage in these negotiations, even with legal counsel. The doctrine, therefore, creates an opportunity for fairness that is easily lost in the complexities of forensic accounting and actuarial science.

The conceptualization of need is another critical flaw. Alimony determinations often focus on maintaining the marital standard of living, a benchmark that may be unsustainable for two households and fails to address pre-existing economic inequalities within the marriage (Benson, 2023). A needs-based approach rooted in a minimalist subsistence level contradicts the partnership model of marriage that equitable distribution seeks to uphold. Vulnerability Theory offers a corrective here, suggesting that the focus should shift from “need” or “compensation” to “providing the means for resilience”—a calculation that would include costs for retraining, therapy, and a buffer for economic shocks (Fineman, 2022).

Comparative insights from Nordic countries highlight how doctrine operates within a broader ecosystem. Hakovirta and Rantalaiho (2021) find that women in Sweden or Denmark experience a less severe post-divorce income drop. This is not primarily due to more progressive divorce laws, but because strong welfare states provide universal childcare, parental leave, and individual (not family-based) social security entitlements. This suggests that doctrinally robust financial rights are most effective when they are part of a larger infrastructure that supports gender equality and economic independence from the outset, reducing the remedial burden placed solely on divorce settlements. Engaging with Mnookin and Kornhauser’s (2021) framework, the weaknesses in formal doctrine directly weaken the “shadow” it casts. If the law is perceived as undervaluing care work, offering only short-term support, and making future earnings claims difficult to win, then a woman’s bargaining position in settlement negotiations is fundamentally weakened. Her threat point—the outcome she can expect from a costly court battle—is low. This often pressures her into accepting a sub-optimal settlement, effectively privatizing the injustice. The doctrinal mirage of fairness thus collapses under the weight of bargaining power imbalances.

In conclusion, the answer to the first research question is that prevailing legal doctrines, despite rhetorical advances towards equity, remain conceptually limited. They are hamstrung by an inability to fully economicize care, a financial toward unrealistic rehabilitation timelines, and technical complexities that favor the financially powerful. They conceptualize rights through a lens that individualizes the problem of post-divorce poverty rather than recognizing it as a systemic, gendered

outcome. As a result, their quantification of financial entitlements frequently falls short of remedying the very disparities they are meant to address, setting the stage for the enforcement challenges explored next.

The Enforcement Abyss: Structural and Socio-Cultural Barriers to Realizing Rights

The second research question probes the barriers that impede the realization of formally awarded financial rights. The analysis uncovers that obtaining a favorable court judgment is often merely the beginning of a second, more arduous struggle for enforcement—an “abyss” where rights dissipate. The most direct barrier is non-compliance by the obligor. Resistance to paying spousal support or a share of assets is common, driven by resentment, financial strain, or strategic evasion (Smart, 2021). Enforcement mechanisms, such as income withholding orders, liens, or contempt proceedings, exist but are notoriously slow, costly, and require sustained legal initiative from the recipient, who is likely already resource-depleted.

This procedural burden is a profound structural barrier. As Cheng (2021) details in her international review, enforcement systems are frequently fragmented, under-resourced, and complex to navigate. Pursuing enforcement through the courts demands money for lawyers, time off work, and emotional fortitude—resources in short supply for a newly single parent managing economic transition. The system, therefore, presumes a level of resilience and capacity that the very act of enforcement is meant to build. This creates a cruel paradox where those most in need of effective enforcement are least able to activate it. The state’s role often remains passive, waiting for the claimant to initiate action rather than proactively ensuring compliance.

Socio-cultural barriers powerfully reinforce these structural flaws. Discourses that stigmatize women who seek financial support from ex-spouses are prevalent. Baker and Elizabeth (2020) describe how women are often portrayed as “gold-diggers” or vindictive for pursuing their full legal entitlements, while men who resist payment may be framed as protecting themselves from unfair exploitation. This cultural narrative can pressure women to accept less, avoid “making trouble,” or forgo enforcement to preserve co-parenting relationships or social standing. The internalization of this stigma becomes a powerful psychological barrier to claiming rights.

Financial and legal capability gaps further alienate women from the justice system. Gupta (2019) highlights that lower levels of financial literacy can leave women unable to fully understand the long-term implications of a settlement or to manage a complex asset division. Similarly, lack of access to affordable, competent legal representation—or reliance on overburdened legal aid—means many women negotiate or litigate from a position of profound informational asymmetry. They may be unaware of specific entitlements, such as a claim on their spouse’s military pension or stock options, leading to settlements that inadvertently waive significant value (Kantor, 2020).

Intersectional identities magnify these barriers. Cammett’s (2021) research demonstrates that for low-income women, women of color, or immigrants, the barriers are multiplicative. They may face language obstacles, distrust of legal institutions, precarious immigration status tied to marriage, or labor market discrimination that makes any financial award critically important yet even harder to secure. For them, the enforcement system is not just cumbersome but alien and potentially

threatening. This intersectional critique reveals that the “typical” woman imagined by divorce law is often middle-class and legally connected, rendering the experiences of the most vulnerable invisible. The “shadow of the law” is particularly dark in this enforcement arena. The knowledge that enforcement will be difficult, expensive, and socially fraught directly shapes the initial bargaining phase. An obligor who believes they can delay or avoid payments with impunity has a stronger bargaining position. As Chang and Yang (2022) found in their study on child support, the perceived likelihood of enforcement significantly affects compliance attitudes. When the shadow is weak, the incentive to agree to a fair settlement or to comply voluntarily diminishes. Thus, ineffective enforcement doesn’t just fail to remedy broken agreements; it actively encourages their creation.

In sum, the barriers to realizing financial rights are not incidental failures but systemic features. They include cumbersome, claimant-driven enforcement procedures, powerful cultural stigmas that discourage assertion of rights, and significant disparities in financial and legal capability. These barriers interact and compound, ensuring that for a substantial number of women, a legal right remains a paper promise. This disjuncture between law on the books and law in action necessitates a fundamental rethinking of the enforcement paradigm, moving from a reactive, adversarial model to a proactive, administrative one—a shift that leads directly into the third research question on transformative reforms.

Towards a Transformative Paradigm: Proposals for Equitable and Efficacious Reform

The third research question seeks transformative policy and legal reforms to bridge the gap between theory and practice. The preceding analysis necessitates a paradigm shift from viewing post-divorce financial provisions as a private settlement between two individuals to understanding them as a matter of public interest and gender justice. Reform must be holistic, targeting doctrine, procedure, and supportive social infrastructure simultaneously. First, doctrinal reform must mandate the explicit, substantive valuation of non-financial contributions. Legislative guidelines or presumptive formulas should be developed to translate years of homemaking and childcare into a quantifiable share of marital assets, moving beyond judicial discretion that often harbors implicit bias (Parkinson, 2021). Furthermore, the concept of “rehabilitative alimony” must be reconfigured into “economic rehabilitation support,” with amounts and durations realistically tied to retraining timelines, local job markets, and the recipient’s caregiving responsibilities, as opposed to arbitrary time limits (DeRose, 2020).

A second, critical area of reform is the radical overhaul of the enforcement system. The current adversarial, court-centric model must be supplemented—or in many cases, replaced—by strong administrative enforcement mechanisms. Following successful models for child support, spousal support orders should be automatically integrated into centralized, state-run collection and disbursement agencies upon issuance (Cheng, 2021). These agencies should have robust tools for automatic income withholding, passport denial, credit reporting, and intercepting tax refunds, removing the burden of pursuit from the individual recipient. This shifts the dynamic from a private

conflict to a public debt obligation, significantly strengthening the “shadow of the law” and deterring non-compliance at the source.

Procedural justice and capability-building form the third pillar of reform. Courts and legal services must integrate mandatory financial disclosure and early neutral evaluation by financial professionals to level the informational playing field (Gupta, 2019). Simplified procedures and expanded access to pro bono or low-cost specialized legal aid in family finance are essential. Moreover, as Madden (2023) advocates using a capabilities approach, reforms should aim to build women’s long-term capacity for economic resilience. This could include state-funded “divorce transition grants” for education or training, or linking recipients of time-limited support to job-placement and career counseling services, addressing the root cause of dependency rather than merely managing its symptoms.

Cultural and normative change, though difficult to legislate, must be pursued through public discourse and legal education. Judicial training programs must consistently address implicit gender bias, the economic value of care, and intersectional vulnerability (Cammett, 2021). Public awareness campaigns can challenge the stigmatizing narratives around alimony and reframe financial settlements as the rightful division of a joint enterprise. Engaging men’s groups and community leaders in these conversations can help shift social norms toward viewing compliance as a matter of integrity and responsibility, not defeat.

Ultimately, the most transformative reform would be to adopt a Vulnerability Theory-informed perspective that proactively builds resilience before divorce occurs. This means strengthening the broader social infrastructure that reduces women’s economic dependency within marriage: universal childcare, robust paid family leave, individual (not family-based) taxation and social security benefits, and policies that encourage equitable sharing of domestic labor (Fineman, 2022; Hakovirta & Rantalaiho, 2021). In such an environment, the financial stakes of divorce, while still significant, would be lower, and the law’s remedial task would be less Herculean. Therefore, divorce law reform cannot be siloed but must be part of a comprehensive gender-equality agenda.

Dialogue with previous research confirms that piecemeal solutions are insufficient. Weitzman’s (2022) early findings on economic decline and Okin’s (2023) critique of the private family are addressed by doctrinal reforms that properly value care. Mnookin and Kornhauser’s (2021) insights on bargaining power are operationalized through strong administrative enforcement that solidifies the legal shadow. Fineman’s (2022) vulnerability theory provides the overarching ethical and practical framework for integrating legal and social policy. By synthesizing these strands, the proposed transformative paradigm moves beyond patching a broken system to architecting a new one designed for equity, efficacy, and dignity.

CONCLUSION

This study has undertaken a critical examination of the financial rights of women post-divorce, traversing the landscape from legal doctrine to lived economic reality. Through a synthesis of international and interdisciplinary literature, it has interrogated the structures that promise economic justice at the moment of marital dissolution and revealed the systemic failures that frequently render those promises hollow. The analysis demonstrates that the issue is not a simple

lack of laws but a complex interplay of inadequate conceptual frameworks, formidable structural barriers, and deep-seated socio-cultural norms that collectively disadvantage women.

The first research question regarding the conceptualization and quantification of financial rights has been answered by uncovering the doctrinal mirage of equity. While legal systems have evolved towards principles of fair distribution, their application consistently undervalues non-financial care work, imposes unrealistic rehabilitative timelines, and falters before the technical complexity of valuing future assets. This results in quantified entitlements that are mathematically derived yet fundamentally unjust, failing to compensate for the gendered economic disparities built during the marriage. The law's conceptual toolbox remains ill-suited for the task of gender justice it is increasingly called upon to perform.

The second question on barriers to realization has been addressed by mapping the enforcement abyss. The journey from a paper judgment to actual financial security is fraught with obstacles: procedural complexity that burdens the claimant, pervasive non-compliance, cultural stigma, and gaps in financial and legal capability. These are not accidental flaws but features of a system designed for conflict rather than resolution, and for adversarial process over guaranteed outcome. This abyss swallows the rights carefully articulated in court, leaving many women with legal victories but empty bank accounts, a stark testament to the gap between rights and remedies.

Finally, the third question on transformative reforms has been engaged by proposing a paradigm shift grounded in vulnerability theory, feminist critique, and socio-legal realism. The answers point toward an integrated suite of reforms: doctrinal changes to properly value all contributions; robust administrative enforcement to guarantee payments; procedural supports to ensure fair bargaining; and, most profoundly, investment in the social infrastructure of care that reduces pre-divorce economic dependency. This transformative approach re-frames post-divorce financial provisions from a private settlement of the past to a public investment in future resilience and substantive equality.

This study is limited by its methodological reliance on secondary literature. While this allows for broad synthesis and theoretical analysis, it does not generate new empirical data on the lived experiences of divorcing women in specific, under-studied contexts. The findings and proposed reforms are therefore contingent on the scope and biases of the existing published research, which may over-represent perspectives from Western, developed jurisdictions. Future research should employ mixed-methods, including qualitative interviews and longitudinal surveys across diverse cultural and legal settings, to ground-test the proposed framework and tailor reforms to local realities.

Based on the conclusions, three concrete recommendations are offered. First, for policymakers and legislators: prioritize the establishment of strong, centralized administrative bodies for the automatic enforcement of all financial divorce orders, mirroring successful child support models. Second, for judicial and legal training bodies: implement mandatory continuing education on implicit gender bias, the economics of care work, and trauma-informed practice in family law. Third, for researchers: initiate comparative action research projects that pilot integrated support services—combining legal aid, financial counseling, and workforce training—for women navigating divorce, to

build an evidence base for holistic intervention models. Only through such coordinated, multi-pronged efforts can the financial rights of women post-divorce be transformed from theoretical entitlements into engines of genuine economic security and autonomy.

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