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Revisiting Maintenance Laws: Ensuring Fairness in Matrimonial Disputes

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ABSTRACT

Maintenance laws in India were originally designed to provide financial support to dependent spouses, especially women, following marital separation or divorce. These laws, encompassing both personal and secular statutes, aim to prevent economic hardship but have faced increasing criticism due to evolving societal norms and gender dynamics. As women gain greater financial independence, the assumption that only wives need maintenance is being questioned, with concerns raised about gender bias in their application. The legal framework often places an undue financial burden on men, leading to prolonged litigation, economic distress, and mental health consequences. This paper examines the current legal landscape of maintenance laws, focusing on gender imbalances, judicial approaches, and the challenges both spouses face in matrimonial disputes. Although maintenance provisions are gender-neutral in language, their implementation typically favors women, ignoring instances where husbands may also need support. The paper calls for reforms such as gender-neutral maintenance laws, income-based assessments, time-bound orders, and recognition of pre-nuptial agreements to ensure a more balanced and equitable approach, promoting financial security for both spouses while reducing misuse of maintenance claims.

Keywords: *Maintenance laws, gender asymmetry, financial support, gender-neutral laws, matrimonial disputes, pre-nuptial agreements, legal reforms.*

I. INTRODUCTION

Maintenance laws in India serve as a crucial safeguard to prevent financial hardship for dependent spouses and children after marital separation or divorce. Governed by various personal laws—such as the Hindu Adoptions and Maintenance Act, 1956; Muslim Personal Law; the Indian Divorce Act, 1869 (for Christians); and the Parsi Marriage and Divorce Act, 1936—along with Section 125 of the Code of Criminal Procedure (CrPC), now Section 144 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), these laws were originally designed to ensure financial security for vulnerable spouses, particularly women.

However, as societal norms evolve and women achieve greater financial independence, the

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assumption that only wives require maintenance is increasingly being questioned. Despite the gender-neutral language in some provisions, the legal framework often places a disproportionate financial burden on husbands, sometimes leading to inflated claims and prolonged litigation.

In recent years, concerns have grown over the fairness of maintenance awards. Reports of excessive financial obligations, prolonged legal battles, and even cases of mental distress and suicide among men facing maintenance claims have fueled debates on whether the current laws require reform. While these provisions were intended to provide financial security, their application in certain cases has raised questions about gender bias in matrimonial disputes. This calls for a reassessment of maintenance laws to ensure a balanced and equitable approach that protects the financial interests of both spouses.

II. LEGAL FRAMEWORK OF MAINTENANCE LAWS IN INDIA

The legal framework governing maintenance laws in India is a complex interplay of personal laws and secular statutes designed to provide financial support to dependent spouses, children, and parents. These laws, rooted in religious traditions and statutory enactments, seek to prevent economic distress following marital separation or divorce. While the fundamental objective of maintenance provisions is to ensure financial security, their application often varies based on religious and legal interpretations.

One of the most significant and overarching provisions for maintenance in India is Section 125 CrPC (Section 144 BNSS). Unlike personal laws, which cater to specific religious communities, these provisions apply uniformly across all religions. They enable wives, children, and parents who are unable to sustain themselves to seek financial support. Courts have repeatedly emphasized that maintenance under these provisions is not a matter of charity but a legal right aimed at preventing destitution². The determination of maintenance under these sections is based on factors such as the financial capacity of the husband, the needs of the claimant, and the standard of living they were accustomed to before separation. Recent judicial interpretations have clarified that a wife cannot be denied maintenance merely because she is capable of earning³ or is earning some income⁴, unless she has sufficient independent means to sustain herself.

In addition to secular provisions, maintenance laws under Hindu personal law provide a

² Mohd. Abdul Samad v. State of Telangana, (2024) INSC 506, ¶ 79.

³ Padam Singh v. Poonam Thakur, (2024) HHC 5398, ¶ 23.

⁴ Sunita Kachwaha v. Anil Kuchwaha, AIR 2015 SC 554, ¶ 10.

structured approach to financial support. The Hindu Marriage Act, 1955, contains key provisions governing maintenance, both during and after divorce. Under this statute, a spouse can seek interim maintenance during the pendency of divorce proceedings⁵, ensuring that financial dependency does not hinder access to legal remedies. Further, the law provides for permanent alimony⁶ based on factors such as the duration of marriage, financial stability of both parties, and any special circumstances warranting support. The Hindu Adoptions and Maintenance Act, 1956, expands the scope of maintenance obligations beyond divorce, recognizing the right of a Hindu wife to claim maintenance during the subsistence of marriage unless she is unchaste or has abandoned the husband without justification⁷. Additionally, this law mandates the maintenance of children, dependant parents, and other dependants⁸ who lack financial means, reinforcing the principle of familial support within Hindu law.

Muslim law, governed by both personal customs and statutory provisions, also outlines maintenance obligations, though with distinct legal interpretations. Under traditional Islamic principles, a husband is duty-bound to maintain his wife during the subsistence of marriage, and in the event of divorce, he is required to provide financial support during the *iddat* period, which typically lasts three months. The landmark Shah Bano case⁹ triggered widespread legal and political discourse on the rights of Muslim women to post-divorce maintenance, leading to the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986. This legislation limited maintenance obligations to the *iddat* period but provided alternative relief by allowing a divorced woman to seek financial support from her relatives or, in their absence, from the Wakf Board. Furthermore, Muslim law places an obligation on fathers to provide for their minor children and, in certain cases, for dependent parents who lack financial resources.

Christian and Parsi laws also contain specific provisions for maintenance, albeit within a more limited framework. The Indian Divorce Act, 1869, which governs matrimonial laws for Christians, allows a wife to seek interim maintenance during divorce proceedings and permanent alimony post-divorce¹⁰, subject to judicial discretion. Similarly, the Parsi Marriage and Divorce Act, 1936, recognizes the right to permanent alimony¹¹, with courts assessing the financial position of both parties before awarding maintenance.

Beyond marital relationships, maintenance laws in India also extend to the protection of elderly

⁵ Hindu Marriage Act, § 24, No. 25, Acts of Parliament, 1955 (India).

⁶ Hindu Marriage Act, § 25, No. 25, Acts of Parliament, 1955 (India).

⁷ Hindu Adoptions & Maintenance Act, § 18, No. 78, Acts of Parliament, 1956 (India).

⁸ Hindu Adoptions & Maintenance Act, §§ 20, 22, No. 78, Acts of Parliament, 1956 (India).

⁹ Mohd. Ahmed Khan v. Shah Bano Begum, AIR 1985 SC 945.

¹⁰ The Divorce Act, §§ 36, 37, No. 4, Acts of Parliament, 1869 (India).

¹¹ The Parsi Marriage and Divorce Act, § 40, No. 3, Acts of Parliament, 1936 (India).

parents. Section 125 CrPC (Section 144 BNSS) recognize the right of parents to claim maintenance from their children if they lack the means to support themselves. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, further strengthens these provisions by providing a statutory framework for ensuring financial support and healthcare for elderly individuals, reflecting the broader societal obligation of filial responsibility.

The legal framework surrounding maintenance laws in India, while extensive, often places a disproportionate financial burden on men, particularly in matrimonial disputes. Despite the gender-neutral language of some statutory provisions, courts tend to operate on the presumption that women are financially dependent, reinforcing traditional gender roles. With evolving socio-economic realities and increased financial independence among women, concerns regarding fairness in maintenance awards have gained prominence. In some cases, maintenance provisions have been misused through exaggerated claims and prolonged litigation, leading to significant financial and psychological distress for husbands. The rigid application of maintenance laws, without a nuanced consideration of the changing economic landscape, has contributed to growing demands for reform. A legal system that originally sought to provide financial security for vulnerable spouses must now evolve to ensure a more balanced and equitable approach, preventing undue hardship for either party in matrimonial disputes.

III. GENDER ASYMMETRY AND CHALLENGES IN THE APPLICATION OF MAINTENANCE LAWS

Despite the gender-neutral wording of certain maintenance provisions, their application remains largely skewed in favor of women. While Sections 24 and 25 of the Hindu Marriage Act, 1955, allow husbands to claim maintenance and alimony, these provisions can only be invoked during divorce proceedings. In contrast, wives can claim maintenance under Section 18 of the Hindu Adoptions and Maintenance Act, 1956, as well as monetary relief under the Protection of Women from Domestic Violence Act, 2005, even without seeking a divorce. Additionally, the latter provides exclusive monetary relief for women in cases of domestic violence, assuming that only husbands can be perpetrators of abuse. This lack of a corresponding legal remedy for men leaves them without recourse in situations where wives engage in cruelty or financial harassment.

(A) Impact on Men and Mental Health Concerns

The absence of legal protection for husbands in abusive marriages has serious implications, particularly in the context of financial distress, prolonged litigation, and societal stigma. Studies suggest that the suicide rate among Indian men is 2.5 times that of women (IIPS, Deonar), with

financial stress from maintenance obligations cited as a contributing factor¹². While maintenance laws aim to provide financial security for women, they often fail to acknowledge cases where husbands are victims of cruelty or unfair financial demands.

(B) Judicial Approach and Maintenance Determination

Indian courts have consistently emphasized that maintenance should provide financial stability to the dependent spouse without becoming a tool for undue financial burden on the other. In *Rajnish v. Neha*, a two-judge bench of the Supreme Court elaborated on the broad criteria for determining the quantum of maintenance. The judgment establishes a comprehensive framework for assessing maintenance, particularly in cases of permanent alimony. It clarifies that maintenance is not meant to punish the paying spouse but to prevent the dependent spouse from falling into destitution or vagrancy due to the failure of the marriage. Instead of a fixed formula, courts must consider various factors, including:

1. The social and financial status of the parties.
2. The reasonable needs of the wife and dependent children.
3. The qualifications and employment status of both spouses.
4. The independent income or assets owned by either party.
5. The standard of living maintained in the matrimonial home.
6. Any employment sacrifices made for family responsibilities.
7. Reasonable litigation costs for a non-working wife.
8. The financial capacity of the husband, including his income, maintenance obligations, and liabilities¹³.

Despite these considerations, the "standard of living test" has been widely debated for its inconsistencies. Courts often assume that a wife's pre-divorce standard of living must be maintained, even when such an expectation may be unreasonable. This is particularly problematic in short-lived marriages where the wife neither contributed to nor experienced a significantly high standard of living. Similarly, cases where the wife initiates divorce and engages in cruelty to expedite separation but still claims financial support raise concerns about fairness in maintenance awards.

Additionally, the financial capacity of the husband is sometimes overlooked, leading to

¹² Suryakant Yadav et al., Changing Pattern of Suicide Deaths in India, 16 THE LANCET REGIONAL HEALTH - SOUTHEAST ASIA, 2023, <https://doi.org/10.1016/j.lansea.2023.100265> (last visited Mar. 16, 2025).

¹³ *Rajnish v. Neha & Ors.*, AIR 2021 SC 569.

maintenance orders that impose a disproportionate burden on him. This issue becomes even more concerning when the husband faces economic hardship or has other financial responsibilities. While the law aims to provide financial security to the dependent spouse, its rigid application can result in inequitable outcomes, particularly when the wife is financially independent or has played an active role in the breakdown of the marriage.

(C) Judicial Approach to Husbands Claiming Maintenance

While Indian maintenance laws primarily focus on providing financial support to wives, husbands can seek maintenance under the Hindu Marriage Act, 1955. However, the legal framework places a significantly higher burden on men to justify their claims. A husband can claim maintenance only if he proves that he is incapable of earning due to a permanent physical or mental disability, unlike the broader maintenance provisions available to women.

Judicial decisions have reinforced this stance. In *Nivya V.M. v. Shivaprasad M.K.*, the Kerala High Court held that granting maintenance to an able-bodied husband would promote idleness, emphasizing that men are expected to support themselves unless they suffer from a serious incapacity¹⁴. Similarly, in *Kamelandra Sawarkar v. Kamelandra*, the Bombay High Court ruled that a husband cannot depend entirely on his wife's income unless he proves a complete inability to work¹⁵. These rulings reflect the courts' cautious approach to granting maintenance to husbands, often reinforcing the expectation that men should remain financially self-sufficient.

This approach raises concerns about the practical accessibility of maintenance for husbands and whether existing legal provisions adequately address cases where men may genuinely require financial assistance. The current legal framework, which primarily envisions men as financial providers, may need reconsideration to ensure fairness and gender-neutral access to maintenance relief.

IV. NEED FOR REFORM IN MAINTENANCE LAWS

Maintenance laws in India were originally designed to provide financial relief to dependent spouses, primarily women, at a time when gender roles were starkly defined. However, with increasing female workforce participation and evolving societal structures, these laws have often been criticized for being outdated and one-sided. Several key reforms are necessary to ensure a fair and balanced approach to maintenance that considers both spouses' financial realities.

¹⁴ *Nivya V.M. v. Shivaparsad M.K.*, (2017) 2 KLT 803 (Ker.).

¹⁵ *Kamelandra Sawarkar v. Kamelandra*, AIR 1992 Bom. 493.

(A) Making Maintenance Gender-Neutral

Many developed nations have adopted gender-neutral maintenance laws, recognizing that either spouse may require financial assistance post-divorce. This approach ensures that the financial needs of both parties are considered without bias. In contrast, Indian laws primarily assume that only wives need financial support, despite the increasing number of women in high-paying jobs and financially independent roles.

Although Sections 24 and 25 of the Hindu Marriage Act, 1955, provide for maintenance to either spouse, husbands rarely receive alimony due to judicial bias and social stigma. Courts often require husbands to prove permanent disability or inability to work, while wives are granted maintenance based on financial disparity alone. This bias is evident in the judgment in *Shamima Farooqui v. Shahid Khan*, where the Supreme Court held that the obligation of the husband to provide maintenance stands on a higher pedestal than the wife¹⁶. A gender-neutral approach would ensure that maintenance is awarded based on economic dependence rather than traditional gender roles, promoting fairness and equality in the maintenance process.

(B) Income-Based Maintenance Assessment

A fair maintenance system must be based on objective financial assessments rather than assumptions about gender-based financial dependency. In *Rajnish v. Neha* (2020), the Supreme Court mandated that both spouses submit financial affidavits disclosing their income, assets, liabilities, and expenses to ensure an equitable determination of maintenance. However, in practice, courts often rely on unverified claims, leading to arbitrary and excessive maintenance orders that disproportionately burden one party. To prevent false or exaggerated claims, the strict enforcement of financial affidavits should be made mandatory, ensuring transparency and fairness in maintenance proceedings. Additionally, maintenance amounts should be calculated proportionally based on both spouses' earnings and financial obligations, rather than operating on the outdated presumption that men are always the financially superior party.

(C) Time-Bound Maintenance Orders

In India, spousal maintenance laws lack a fixed time limit, often resulting in indefinite financial obligations for the paying spouse. While courts consider factors such as the financial status of both parties, earning capacity, and the standard of living, there is no uniform framework to ensure that maintenance encourages financial independence rather than lifelong dependency.

In contrast, U.S. and U.K. laws emphasize time-limited spousal support. In the United States,

¹⁶ *Shamima Farooqui v. Shahid Khan*, AIR 2015 SC 2025, ¶ 18.

alimony is often awarded for a fixed period, typically half the duration of the marriage, ensuring that the recipient spouse transitions to self-sufficiency. The *Gavron v. Gavron* decision reinforced this principle by introducing the "Gavron warning," which notifies the recipient that they are expected to become self-supporting within a reasonable timeframe, failing which spousal support may be modified or terminated¹⁷. Similarly, in the United Kingdom, courts favor fixed-term maintenance unless the recipient is incapable of achieving financial independence. The ruling in *Waggott v. Waggott* emphasized that spousal maintenance should not be a "meal ticket for life" and encouraged financial independence rather than indefinite support¹⁸. In India, however, courts rarely impose clear timelines for maintenance, leading to indefinite financial obligations, which can be inconsistent with evolving global legal trends prioritizing financial autonomy.

(D) Clear Formula for Alimony Calculation

The lack of a fixed formula for alimony calculation presents challenges in jurisdictions like India, where judges have broad discretion in determining alimony amounts without a standardized approach. This often leads to inconsistent maintenance awards, where two similar cases may result in vastly different outcomes. In contrast, many states in the U.S. follow structured guidelines for alimony calculations, which consider factors such as income, duration of marriage, and financial needs, ensuring greater consistency and predictability.

For instance, in the U.S., different states have developed their own formulas for calculating alimony. One such example is the New York formula, which is based on a percentage of the difference between the parties' incomes, ensuring that maintenance awards are predictable and consistent across cases. The benefit of such formulas is that they provide transparency, reduce the potential for biased decisions, and ensure a fairer distribution of financial support based on established criteria.

(E) Consider the Earning Capacity of the Spouse

In the U.S. and U.K., courts typically consider a spouse's earning capacity when determining maintenance, often expecting them to become self-sufficient and support themselves financially. This ensures that maintenance is awarded to meet immediate needs, not to create long-term dependency. In contrast, in India, maintenance is often granted even if the recipient spouse is capable of working, which can lead to continued financial dependency. This practice may discourage self-sufficiency and create an imbalance in the financial responsibilities of the

¹⁷ In re Marriage of Gavron, 203 Cal. App. 3d 705 (Cal. Ct. App. 1988).

¹⁸ Waggott v. Waggott, [2018] EWCA Civ 727 (Eng.).

spouses.

The Bombay High Court, in *Sanjay Damodar Kale v. Kalyani Sanjay Kale*, held that neither the mere potential to earn nor the actual earning of the wife, however meager, is sufficient to deny the claim of maintenance¹⁹. This ruling underscores the tendency to grant maintenance regardless of the wife's earning capacity, further contributing to financial dependency. Encouraging a more holistic view of earning capacity could promote fairness and reduce long-term financial reliance on the other spouse.

(F) Penalty for False or Malicious Maintenance Claims

Currently, there is no legal consequence for false or frivolous maintenance claims, leading to numerous instances where financially independent spouses file maintenance petitions solely to harass their partners or gain undue financial benefits. This misuse of the legal system not only wastes judicial resources but also causes unnecessary emotional and financial strain on the accused. To address this issue, courts should impose penalties on individuals found guilty of filing false or malicious claims. Strict scrutiny must be applied in maintenance cases to prevent extortionate demands and ensure that maintenance is granted based on legitimate needs. Additionally, laws similar to Section 209 of the Indian Penal Code (Section 246 of the Bharatiya Nyaya Sanhita), which addresses false claims in court, should be explicitly incorporated into maintenance provisions to deter such misconduct and uphold the integrity of the legal process.

(G) Recognition of Pre-Nuptial Agreements

Pre-nuptial agreements can help define financial obligations clearly, reducing conflicts and allegations of misuse during divorce proceedings. These agreements allow both parties to establish terms related to property division, alimony, and other financial matters, ensuring transparency and reducing uncertainty in the event of a divorce. In many developed nations, such agreements are legally recognized and enforceable, providing an added layer of security for both spouses.

In contrast, India does not have legal provisions that specifically recognize pre-nuptial agreements, which can lead to difficulties in managing financial expectations and responsibilities during divorce settlements. A prenuptial agreement is a contract entered by the spouses, which is not regulated by any personal laws and, therefore, is subjected to the provisions of the Indian Contract Act, 1872. Section 23 of the Indian Contract Act prohibits any contract that can be construed to be against the public policy of the nation. The Supreme Court

¹⁹ Sanjay Damodar Kale v. Kalyani Sanjay Kale, Criminal Revision Application No. 164 of 2019 (Bombay High Court, May 26, 2020).

and the High Courts have held prenuptial agreements to be void, as they were deemed to be against public policy. They also reiterated that marriage is not a contract but a sacred bond.

Recognizing and enforcing pre-nuptial agreements in India could help promote fairness, reduce litigation, and ensure that both parties' financial interests are protected, but this remains a challenge due to the prevailing legal and cultural perspectives.

V. CONCLUSION

The key issues in maintenance laws revolve around the inconsistencies in the application of maintenance provisions, the lack of a fixed formula for determining alimony, and the judicial bias towards granting maintenance primarily to wives, even in cases where the recipient spouse is financially capable of supporting themselves. In addition, the absence of recognition for prenuptial agreements and gender-neutral approaches in maintenance further complicates the legal landscape.

A balanced legal approach is needed to protect genuine dependents while preventing misuse of the system. The current laws often result in financial dependency, and at times, allow for false claims, which can be detrimental to both parties involved. There is a strong need for reforms that address these issues. Specifically, a gender-neutral, income-based, and time-limited approach to maintenance would ensure that financial support is awarded based on actual economic dependence rather than traditional gender roles. This would foster fairness and reduce the potential for misuse.

The judiciary and legislature must play a crucial role in ensuring that maintenance laws are applied equitably. Through judicial consistency and legislative reforms, the system can be made more transparent, predictable, and just, promoting fairness in matrimonial disputes and protecting the rights of both parties involved.
