

WOMEN'S RIGHT TO MAINTENANCE IN INDIA: A CONSTITUTIONAL AND LEGAL ANALYSIS

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ABSTRACT

Maintenance is an essential part of the family law, and a powerful instrument to attain economic justice, social wellness, and gender equality in India. Maintenance was conventionally regarded as a personal responsibility of a husband towards a wife, however, there is a tendency to gradually transform it into a legally binding right, which has constitutionalizing foundations and legislations that serve the well-being. Even though there is a vast number of laws and legislations, such as the Bharatiya Nagarik Suraksha Sanhita, 2023, the Hindu Adoptions and Maintenance Act, 1956, the Hindu Marriage Act, 1955, the Protection of Women from Domestic Violence Act, 2005, the Special Marriage Act, 1954, and personal laws, the enforcement of maintenance rights still has a long way to go and is fraught with legal and procedural hurdles. The inconsistent application of the law, slow judicial proceedings, weak enforcement of maintenance orders, duplication of procedures and lack of uniformity in the application of the standards for determining maintenance can impede the effective enjoyment of women's rights.

This paper is a critical discussion of the constitutional and statutory provisions on the right of women to maintenance in India. It looks at the meaning and scope of the different articles of the Constitution like Article 14, 15(3), 21, 38, 39 and 41 and how the constitutional ideals of equality, dignity and social justice move the interpretation of the maintenance laws. The study research methodology comprises of doctrinal research which entails interpreting the provisions of the constitution, statutory acts, judicial precedents, and literature. Special focus is given to the

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changing interpretation of the Supreme Court of India in landmark and recent cases which have enhanced the recognition of maintenance as a form of substantive equality and not just financial support.

According to the article, the Indian law has a number of statutory remedies, but the existing legal system is somehow inconsistent and can lead to various results and access to justice. It concludes that a constitutional approach with a gender justice, human dignity and effective enforcement mechanisms is necessary for meaningful protection of women's right to maintenance. The study suggests increased harmonisation of the implementation of maintenance laws, a common approach to deciding on maintenance, more robust enforcement mechanisms and the recognition of unpaid domestic work to fulfil the constitutional goal of substantive equality.

Keywords: Women's Right to Maintenance, Family Law, Gender Justice, Constitutional Equality, Maintenance Laws in India.

1. INTRODUCTION

The concept of maintenance is a concept under family law, which safeguards the financial support of the dependent family members. In India, it has metamorphosed into an ethical responsibility of the husband and has turned into a right with the constitutional provisions of equality, dignity, and social justice as its foundation. It can help women to escape the economic challenges they face due to divorce, separation, abandonment, or domestic violence.³

This right is facilitated by the Constitution of India in the Articles 14, 15(3) and 21 and the Directive Principles enhance social welfare and economic justice. Both personal and secular laws (Hindu Marriage Act, 1955 “Hindu Adoptions and Maintenance Act, 1956, Muslim Women (Protection of Rights on Divorce) Act, 1986, Indian Divorce Act, 1869, Parsi Marriage and Divorce Act, 1936, Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Protection of Women from Domestic Violence Act, 2005) regulate the maintenance right of women. Even with the legal protection, real grounds like delays in the procedure, problems assessing income and poor enforcement still present obstacles to proper implementation of these laws.⁴

³ Paras Diwan, *Modern Hindu Law* (22nd edn, Allahabad Law Agency 2023) 432–438.

⁴ Constitution of India arts 14, 15(3), 21 and 44; Hindu Marriage Act 1955, ss 24–25; Hindu Adoptions and Maintenance Act 1956, ss 18–22; Muslim Women (Protection of Rights on Divorce) Act 1986; Indian Divorce Act

This gap between statutory entitlement and practical realisation is borne out by the persistent backlog before family courts, which continue to carry a substantial volume of pending matrimonial and maintenance matters despite steady annual disposal rates. The resulting delay compounds the very economic vulnerability that maintenance law is designed to address, since women awaiting adjudication are frequently left without any interim income.⁵

Court cases involving Mohd. The cases of Ahmed Khan v. Shah Bano Begum, Danial Latifi v. Union of India and Rajnesh v. Neha have enhanced the maintenance jurisprudence by acknowledging maintenance as a tool of economic insecurity and social justice. This paper breaks down the constitutional and legislative framework for women in maintenance entitlement, the subsequent judicial cases, and current problems in the law, and proposes reforms in order to provide a more efficient and consistent law.⁶

2. HISTORICAL EVOLUTION OF WOMEN'S RIGHT TO MAINTENANCE IN INDIA

Maintenance in India has changed into a moral and religious obligation to a legally binding right in defending the dignity and financial independence of women. Maintenance has become a significant assessment of social justice as a result of constitutional values and legislative reforms.⁷

2.1 Maintenance under Ancient Hindu Law

Maintenance as an obligation under ancient Hindu law considered maintenance to be a moral and religious requirement of the husband and family to the dependent members such as wives, children, widows and elderly members of the family. Though women also had few proprietary rights by virtue of stridhan, they were mostly economically reliant on male relatives. As a result, maintenance was one of the key ways to guarantee their financial well-being.

2.2 Maintenance under Muslim Personal Law

In the Muslim law, the husband is expected to offer nafaqah which comprises of food, clothing, shelter and other requirements. The prominent ruling of Mohd. Ahmed Khan v. Shah Bano Begum (1985) acknowledged the right of Muslim women who are divorced to receive maintenance as

1869, ss 36–37; Parsi Marriage and Divorce Act 1936, s 40; Bharatiya Nagarik Suraksha Sanhita 2023, s 144; Protection of Women from Domestic Violence Act 2005, s 20.

⁵ SCC Online Blog, 'Engendering Pendency and Delays: How Laws Are Slowing Justice' (*SCC Online*, 22 January 2026) <<https://www.scconline.com/blog/post/2026/01/22/engendering-pendency-and-delays-legislative-design-indian-judiciary/>> accessed 13 August 2026.

⁶ *Mohd Ahmed Khan v Shah Bano Begum* (1985) 2 SCC 556; *Danial Latifi v Union of India* (2001) 7 SCC 740; *Rajnesh v Neha* (2021) 2 SCC 324.

⁷ Mulla, *Principles of Hindu Law* (24th edn, LexisNexis 2022) 873–878.

provided in Section 125 of the Code of Criminal Procedure. This was followed by a liberal interpretation case of the Muslim Women (Protection of Rights on Divorce) Act, 1986 by *Danial Latifi v. Union of India* (2001), which made the husband provide a fair and reasonable amount beyond iddah period.⁸

2.3 Colonial Period

The family relations were still governed by personal laws in the times of British occupation, yet in 1898, Section 488 of the Code of Criminal Procedure added a secular remedy, which allowed the wives, children, and parents who were incapable of supporting themselves to take legal action. This was a significant shift toward solely religious duties to statutory protection enforced on the social welfare.⁹

2.4 Post-Independence Developments

The Laws on maintenance were improved significantly by legislative changes made after adoption of the Constitution. The Hindu Marriage Act, 1955 also enacted the provisions of interim maintenance and permanent alimony and the Hindu Adoptions and Maintenance Act, 1956 provided an autonomous statutory right to maintenance. Other such remedies were added to the Special Marriage Act, 1954, Indian Divorce Act, 1869, and Parsi Marriage and Divorce Act, 1936 thus extending legal protection to more communities.¹⁰

2.5 Development of Secular Maintenance Rights

In 1973, a religion-neutral mechanism was created by section 125 of the Code of Criminal Procedure, which caused wives, children, and parents to become neglected and destitute. Section 144 of the Bharatibharatiya Nagarik Suraksha Sanhita, 2023 with its welfare-structured aim has now substituted this provision.¹¹

2.6 Maintenance as a Constitutional Right

The contemporary maintenance law is based on the constitutional ideas of equality, dignity, and economic justice. Courts gradually become more aware of the importance of women and their contributions in terms of unpaid domestic labour and care giving which are worth financial protection. The Supreme Court in *Rajnish v. Neha* (2020) stressed that maintenance must help

⁸ *Mohd Ahmed Khan v Shah Bano Begum* (1985) 2 SCC 556; *Danial Latifi v Union of India* (2001) 7 SCC 740.

⁹ Code of Criminal Procedure 1898, s 488.

¹⁰ Hindu Marriage Act 1955, ss 24–25; Hindu Adoptions and Maintenance Act 1956, ss 18–22; Special Marriage Act 1954, ss 36–37; Indian Divorce Act 1869, ss 36–37; Parsi Marriage and Divorce Act 1936, s 40.

¹¹ Code of Criminal Procedure 1973, s 125; Bharatiya Nagarik Suraksha Sanhita 2023, s 144.

divorce spouses live a reasonable standard of life and came up with several guidelines aimed to promote increased predictability and impartiality in maintenance cases. In turn, maintenance is now an ideal of a rights-based process that progresses the financial security of women and gender justice.¹²

3. CONSTITUTIONAL FRAMEWORK GOVERNING WOMEN'S RIGHT TO MAINTENANCE

The Indian Constitution inherits the clauses of equality, dignity and social justice as a basis in defending the right of women to maintenance. Even though maintenance is not a formal right, the constitutional clause and the interpretive developments and rulings of the courts have invented it as a critical aspect of law in guaranteeing that women enjoy economic stability and safeguard against poverty and deprivation following a marital divorce. Maintenance legislations aim at redressing structural inequalities of women in terms of economic dependence and inequality in social terms.¹³

3.1 Article 14: Right to Equality

Article 14 ensures that there is equality before the law and equal protection of the laws. This is appropriate in the context of maintenance as women who develop economic vulnerability due to separation, divorce, or abandonment are provided with an equivalent legal protection. Maintenance provisions favour substantive equality because of unequal economic status of women and give them a course of financial assistance to obtain actual justice and not just formal equality.¹⁴

3.2 Article 15(3): Protective Measures for Women

Article 15(3): The State can provide special treatment to women and children. This constitutional exception to the principle of equality allows the affirmative action, based on the desire to combat historic discrimination against women. This constitutional requirement can be observed in the various maintenance provisions in the Hindu marriage act, Hindu adoption and maintenance Act, and the protection of women against domestic violence by providing women with special

¹² *Rajnesh v Neha* (2021) 2 SCC 324.

¹³ Constitution of India arts 14, 15(3), 21, 38, 39, 41 and 44.

¹⁴ Constitution of India art 14; *Air India v Nergesh Meerza* (1981) 4 SCC 335.

protections against the disadvantaged economically. These provisions provide substantive equality in that it tackles structural inequalities in family relationships.¹⁵

This affirmative logic reflects a wider economic reality, since women in India continue to perform the overwhelming share of unpaid domestic and care work that sustains the household without any direct remuneration. Recognising this imbalance lends further constitutional weight to treating maintenance as a corrective mechanism rather than a charitable measure.¹⁶

3.3 Article 21: Right to Life and Dignity

Article 21 has contributed profusely to the constitutionalization of maintenance by the interpretation of the judiciary. The Supreme Court has always believed that the right to life entails the right to dignified and basic economic security. The loss of dignity and quality of life of a woman is a direct result of monetary loss after the dissolution of a marriage. Maintenance has, therefore, been identified as an invaluable tool of safeguarding women against poverty, lack of concern and being a dependent person and hence living dignified lives as well.¹⁷

3.4 Directive Principles of State Policy

The Directive Principles are not binding, but guides significantly to the laws of maintenance development by the courts. Article 38 demands that the State has to proclaim a social order of justice, and Article 39(a) aims to be able to guarantee the sufficient means of livelihood of both men and women. Article 39(d) appreciates the concept of economic equality thus contributing to increased judicial appreciation of women unpaid domestic duties during maintenance considerations. Also, Article 41 motivates the State to offer social support to individuals who are economically disadvantaged. Collectively, these provisions enhance the maintenance-focused goal of maintenance laws and fortify the constitutional promise to social justice.¹⁸

3.5 Article 44 and Uniform Maintenance Principles

¹⁵ Constitution of India art 15(3); Hindu Marriage Act 1955, ss 24–25; Hindu Adoptions and Maintenance Act 1956, ss 18–22; Protection of Women from Domestic Violence Act 2005, s 20.

¹⁶ Ministry of Statistics and Programme Implementation, *Time Use Survey 2024* (Government of India 2025), discussed in Ritu Sain, 'Underlining the Work That Women Do: Findings from Time Use Survey 2024' (*Observer Research Foundation*, 8 March 2025) <<https://www.orfonline.org/expert-speak/underlining-the-work-that-women-do-findings-from-time-use-survey-2024>> accessed 13 August 2026.

¹⁷ Constitution of India art 21; *Francis Coralie Mullin v Administrator, Union Territory of Delhi* (1981) 1 SCC 608; *Rajnish v Neha* (2021) 2 SCC 324.

¹⁸ Constitution of India arts 38, 39, 41.

Article 44 guides the State to pursue the achievement of a Uniform Civil Code. The presence of the various personal laws usually leads to disparities when it comes to eligibility, quantum and the application of maintenance. Even though it acknowledges the diversity of laws within India, the desire towards similarity in the maintenance of laws that will provide women with equal protection regardless of their religion increases. Consistency in calculation, financial disclosure and enforcement can help decrease inconsistencies and enhance gender justice without requiring personal laws to be abolished.¹⁹

3.6 Constitutional Interpretation of Maintenance as Gender Justice

The maintenance has become a form of constitutional justice rather than family which judges have interpreted. Under Articles 14, 15(3), 21 in the Constitution, the right of a woman to maintenance has been recognised by the courts to be closely related to the right to equality, dignity and economic security. Maintenance is therefore no longer considered only as a monetary support but as a right, which is legally binding and which safeguards the women against financial difficulties and thereby advances the substantive equality. It has now become part of the constitutional duty of India to achieve social justice and gender equality.²⁰

4. THE LEGAL STATUS OF WOMEN'S RIGHT TO MAINTENANCE IN INDIA

There is a blend of personal laws and secular laws that regulate the right of women to maintenance in India. The laws offer financial security to women when they are married, when they are separating, divorcing, during prevalence of domestic violence, and in cases of economic dependence. The pluralistic legal system of India has led to overlapping remedies, and unequal standards despite the presence of several statutes. However, legislative framework shows the interest of the State in defending the dignity of women, their financial security, and access to justice.²¹

4.1 Maintenance Rights under Hindu Law

The incorporation of Hindu personal law following the Independence greatly enhanced the rights to maintenance by women. The Hindu Acts 1955/1956 (marriage) and 1956/1957 (adoption)

¹⁹ Constitution of India art 44; *Sarla Mudgal v Union of India* (1995) 3 SCC 635.

²⁰ *Rajnesh v Neha* (2021) 2 SCC 324; *Mohd Ahmed Khan v Shah Bano Begum* (1985) 2 SCC 556.

²¹ Paras Diwan, *Modern Hindu Law* (22nd edn, Allahabad Law Agency 2023) 432–450; Flavia Agnes, *Family Law Volume I: Family Laws and Constitutional Claims* (2nd edn, Oxford University Press 2011) 195–215.

redefined customary moral requirements as legislation that offered women a legal solution to poverty.²²

4.1.1 Hindu Marriage Act, 1955

Hindu marriage Act of 1955 offers financial aid during and after marriages.

Section 24 is concerned with maintenance pendente lite, and litigation expenses in situations when one or another spouse does not have an adequate independent income. The provision being gender-neutral, however, mostly beneficiaries who have been financially dependent may mostly be women. It has guaranteed an equal access to justice as it allows the weaker spouse to easily initiate or defend matrimonial proceedings.²³

Section 25 gives the court power to grant permanent alimony by taking into account various factors including the income, property, conduct, financial demands and entire circumstances of the spouses. This is aimed at the long-term financial security, especially to women who have had to give up working life to homes and take care of the home.²⁴

4.1.2 Hindu Adoptions and Maintenance Act, 1956

An autonomous statutory right to maintenance outside matrimonial disputes is vested in the Hindu Adoptions and Maintenance Act, 1956.

In section 18, the right of the wife to being maintained by her husband during her lifetime is realized. It also allows her to take separate residence and maintenance under circumstances like desertion, cruelty, conversion of religion, serious illness of the husband and also when he has an additional wife. This is the provision based on the legal establishment that marriage generates two-sided economic duties.²⁵

Section 19 offers maintenance to a widowed daughter-in-law who cannot sustain herself hence prolonging financially to vulnerable women upon the demise of their men.²⁶

Section 20 obligates to keep children and old parents. Despite their gender neutrality, the clause indirectly protects old women and mothers, who rely on family support.²⁷

4.2 Maintenance Rights under Muslim Law

²² Hindu Marriage Act 1955, ss 24–25; Hindu Adoptions and Maintenance Act 1956, ss 18–22; Mulla, *Principles of Hindu Law* (24th edn, LexisNexis 2022) 873–890.

²³ Hindu Marriage Act 1955, s 24; *Jasbir Kaur Sehgal v District Judge, Dehradun* (1997) 7 SCC 7.

²⁴ Hindu Marriage Act 1955, s 25; *Rajesh v Neha* (2021) 2 SCC 324.

²⁵ Hindu Adoptions and Maintenance Act 1956, s 18.

²⁶ Hindu Adoptions and Maintenance Act 1956, s 19.

²⁷ Hindu Adoptions and Maintenance Act 1956, s 20.

The Muslim law acknowledged that maintenance (nafaqah) is the duty of the husband to feed, dress, house as well as other needs of his wife. Courts and laws have been reformed and rights of the Muslim women who are divorced have been boosted substantially due to judicial interpretation and legislative changes.²⁸

4.2.1 Muslim Women (Protection of Rights on Divorce) Act, 1986

The legislation was amended following the Shah Bano verdict to control the rights of Muslim women who get a divorce.

Section 3 provides a divorced Muslim woman a fair and reasonable provision, maintenance, and dower (mehr) and giving back of property. The Supreme Court however construed this provision in *Danial Latifi v. Union of India* to necessary that the husband shall make a fair provision to the future which is not limited to iddah period but guarantees long-term financial security.²⁹

Section 4 enables divorce Muslim women unable to support themselves to receive maintenance at the hands of relatives who would inherit her property, and where they are required, the State Wakf Board. The provision provides a second social security provision to women who are financially vulnerable.³⁰

4.2.2 Muslim Women (Protection of Rights on Marriage) Act, 2019

The Act eliminated the practice of instant triple talaq and the circumference of dependent children and wife subsistence allowance is provided. It strengthens economic security of women whose marriages are arbitrarily ended.³¹

The constitutionality of the 2019 Act remains under active judicial scrutiny, as the Supreme Court has been hearing challenges to its criminal provisions and has directed the Union Government to furnish data on the number of prosecutions launched under Sections 3 and 4 since the law came into force. This ongoing litigation illustrates that the legislative response to instant talaq, though protective in intent, continues to raise unresolved questions of proportionality and implementation.³²

²⁸ Tahir Mahmood, *Muslim Law in India and Abroad* (2nd edn, Universal Law Publishing 2012) 178–189.

²⁹ Muslim Women (Protection of Rights on Divorce) Act 1986, s 3; *Danial Latifi v Union of India* (2001) 7 SCC 740.

³⁰ Muslim Women (Protection of Rights on Divorce) Act 1986, s 4.

³¹ Muslim Women (Protection of Rights on Marriage) Act 2019, ss 5–6; *Shayara Bano v Union of India* (2017) 9 SCC 1.

³² Supreme Court Observer, ‘Criminalisation of Triple Talaq | Day 1: Union to Submit Details of Cases Registered under the Muslim Women Act, 2019’ (*Supreme Court Observer*, 29 January 2025) <<https://www.scobserver.in/reports/criminalisation-of-triple-talaq-day-1-union-to-submit-details-of-cases-registered-under-the-muslim-women-act-2019/>> accessed 13 August 2026.

4.3 Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023

Section 144 of the BNSS substitutes Section 125 of the Code of Criminal Procedure, but it retains its secular welfare-oriented nature. It allows the wives, divorced wives, children and parents unable to sustain themselves to claim maintenance regardless of religion. The clause aims at avoiding negligence and poverty by providing a quick and efficient legal solution. The qualification lies in the fact that the claimant must show that he or she is not able to support himself or herself in any way and the respondent fails or is unwilling to do so regardless of whether he/she has the means or not.³³

4.4 Protection of Women from Domestic Violence Act, 2005

Protection of Women against Domestic Violence Act extends the notion of maintenance as it acknowledges economic abuse as domestic violence. In Section 20, the courts can grant financial compensation as compensation of loss of earnings, medical expenses, property damage and maintenance to the aggrieved woman and children. The Act thus links maintenance to the right of women to protection, drug independence as well as dignified existence.³⁴

The continuing relevance of this economic dimension is reflected in national crime data, which records cruelty by a husband or his relatives as the single largest category of reported crime against women, accounting for roughly three in ten such cases nationally. Viewed against this backdrop, the compensatory and maintenance provisions of the Act operate as a necessary economic complement to its protective orders.³⁵

4.5 Maintenance under the Special Marriage Act, 1954

Special marriage Act 1954 offers maintenance rights to spouses who get married under a secular law system regardless of religion. Just as it is in the Hindu Marriage Act, it empowers the court to award interim maintenance in family cases being tried in the court, and alimony awarded permanently upon the termination of marriage. When setting the maintenance, the court will take into consideration the source of income and property of the parties, their economic needs, living standards, behavior and other pertinent factors. The Act is supposed to make sure that the fact that

³³ Bharatiya Nagarik Suraksha Sanhita 2023, s 144; Code of Criminal Procedure 1973, s 125; *Mohd Ahmed Khan v Shah Bano Begum* (1985) 2 SCC 556.

³⁴ Protection of Women from Domestic Violence Act 2005, ss 3 and 20.

³⁵ National Crime Records Bureau, *Crime in India 2022* (Ministry of Home Affairs 2024), discussed in 'NCRB: Domestic Violence Tops Crimes Against Women in India' *Deccan Chronicle* (Hyderabad, 6 May 2025) <<https://www.deccanchronicle.com/nation/crime/ncrb-domestic-violence-tops-crimes-against-women-in-india-1877291>> accessed 13 August 2026.

a spouse is financially dependent does not deny a spouse, especially women, access to justice or to live a dignified life even after the breakdown of a marriage. The Act strengthens constitutional provisions of equality and secularism by offering equal protection to inter religious and civil marriages.³⁶

4.6 Maintenance under Christian Law

The Indian Divorce Act, 1869 is the main law that regulates the rights of Christian women to be provided with maintenance. The Act empowers the courts to award interim maintenance as well as permanent alimony, both in matrimonial cases, and following the divorce or court separation. When executing this power, the courts put into consideration the financial ability of the husband, the income and the demands of the wife, the living standard of the wife, her health and circumstances that caused the marriage conflict. Interpretation of law by the courts has slowly taken the welfare approach which has maintained that maintenance should be granted so as to avoid financial distress and to maintain the dignity of a divorced and separated female. Despite major reforms in the Act, its use in modern times is in accordance with the constitutional ideas of equality and social justice.³⁷

4.7 Maintenance under Parsi Law

The right of spouses to claim a maintenance during and after matrimonial proceedings is also known in Parsi Marriage and Divorce Act, 1936. The Act also allows the courts to grant interim maintenance, litigation costs, and permanent alimony following the judicial hearing based on the income, property, financial liabilities and behavior of both parties. Even though the cases that the law has received are relatively few, the provisions of the law offer valuable economic security to the Parsi women who are undergoing marriage break-up or divorce. The broader aim of the Indian family law reflected in the Act is to make sure that marital dissolution does not place economically disadvantaged spouses at a disadvantage.³⁸

4.8 Comparative Analysis of Personal and Secular Maintenance Laws

Indian maintenance law system includes two types of laws, including individual laws and secular laws. The law of personal governs on the issue of maintenance on the basis of the religious identity of the parties and Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Protection

³⁶ Special Marriage Act 1954, ss 36–37.

³⁷ Indian Divorce Act 1869, ss 36–37.

³⁸ Parsi Marriage and Divorce Act 1936, s 40.

of Women against Domestic Violence Act, 2005 offer religion-neutral solutions. The personal law varies in terms of eligibility, maintenance duration and quantum, and this enforces dissimilarities when it comes to the maintenance standards of different communities. Secular laws, on the contrary, are more concerned with avoiding poverty, and guarantee instant financial support regardless of faith. Courts rulings, especially, *Shah Bano*, *Danial Latifi*, and *Rajnesh v. Neha*, have sought to reconcile such disparities by referring to the constitutional notions of equality, dignity, and social justice in order to interpret mainstream maintenance provision. However, due to the existence of several statutes, there tend to be duplication of proceedings, disparities in the maintenance, and postponements of the courts. A better integrated legal system would improve consistency without interfering with the pluralistic law system in India.³⁹

4.9 Critical Analysis of the Existing Statutory Framework

India has an extensive law that regulates the right of women maintenance. The joint action of personal laws, secular legislature and judicial interpretation offers women numerous ways of obtaining financial security. Nevertheless, the presence of many statutes has posed practical challenges as well. Variations in eligibility requirements, measuring of maintenance and enforcement protections are often the cause of unequal judicial treatments. Cases delays during disposal, cover up of revenues by respondents and poor performance of maintenance orders still hinder effectiveness of these remedies established by the law.

Government data placed before Parliament confirms that family courts across the country disposed of more than eight lakh cases in a single recent year while still carrying a substantial backlog into the next, indicating that structural pendency, rather than any single statutory gap, remains the principal obstacle to timely relief. Any legislative harmonisation must therefore be accompanied by parallel investment in judicial capacity if it is to translate into faster outcomes for claimants.⁴⁰

The recent court rulings have attempted to remedy these weaknesses by proposing standardized rules in reporting about the financial disclosures and maintenance testing. Nevertheless, additional changes in legislation have to be made to ensure that some unifying principles should be set on how maintenance should be calculated, how it should be enforced and some time-limited disposal

³⁹ *Mohd Ahmed Khan v Shah Bano Begum* (1985) 2 SCC 556; *Danial Latifi v Union of India* (2001) 7 SCC 740; *Rajnesh v Neha* (2021) 2 SCC 324.

⁴⁰ SCC Online Blog, 'Engendering Pendency and Delays: How Laws Are Slowing Justice' (*SCC Online*, 22 January 2026) <<https://www.scconline.com/blog/post/2026/01/22/engendering-pendency-and-delays-legislative-design-indian-judiciary/>> accessed 13 August 2026.

of these proceedings. Such reform would enhance legal certainty and maintenance will meet its constitutional purpose of ensuring that women dignity, equality, and economic security.⁴¹

5. JUDICIAL ATTITUDE TOWARDS WOMEN'S RIGHT TO MAINTENANCE IN INDIA

By examining statutory legal provisions through the prism of constitutional values of equality, dignity and social justice, the Indian judiciary has greatly enhanced the right of women to maintenance. It has always been maintained in the courts that maintenance is not just an item of monetary aid, but a measure of welfare, the object of which is not to induce poverty, but to help maintain a dignified way of living. The Supreme Court has extended maintenance rights as well as encouraged consistency in the application of such rights through progressive decisions.

5.1 *Mohd. Ahmed Khan v. Shah Bano Begum* (1985)

The Shah Bano case was a turning point in the Indian maintenance law. The Supreme Court ruled that Section 125 of the Code of Criminal Procedure was a secular provision that was not limited to anyone, regardless of their religion. It held that a divorced Muslim woman could seek maintenance under this sub-clause stressing that the aim of maintenance is to curb poverty and promote social justice.⁴²

5.2 Muslim Women (Protection of Rights on Divorce) Act, 1986 and *Danial Latifi v. Union of India* (2001)

Parliament passed the Muslim Women (Protection of Rights on Divorce) Act, 1986, following Shah Bano. The Supreme Court in *Danial Latifi* affirmed the Act but applied it to the effect that a husband was obligated to make a fair and reasonable provision to the future financial maintenance of his divorced wife. This meaning guaranteed protection not just within the iddah.⁴³

5.3 *Sarla Mudgal v. Union of India* (1995)

The case decided by the Supreme Court was that conversion of religion did not invalidate an existing marriage or allow a second marriage without the dissolution of the first. The ruling safeguarded marriage rights of women and strengthened the values of gender justice and equality.⁴⁴

⁴¹ Law Commission of India, *Report No 252: Right of the Hindu Wife to Maintenance* (2015); *Rajnesh v Neha* (2021) 2 SCC 324.

⁴² *Mohd Ahmed Khan v Shah Bano Begum* (1985) 2 SCC 556.

⁴³ *Danial Latifi v Union of India* (2001) 7 SCC 740; Muslim Women (Protection of Rights on Divorce) Act 1986, s 3.

⁴⁴ *Sarla Mudgal v Union of India* (1995) 3 SCC 635.

5.4 *Shabana Bano v. Imran Khan* (2010)

The Court held that capable of incapable divorced Muslim woman is eligible to receive maintenance under Section 125 CrPC until remarriage. The ruling also restated the fact that the secular maintenance laws are independent of personal law.⁴⁵

5.5 *Rajnesh v. Neha* (2020)

This groundbreaking ruling presented standardized norms of a maintenance process. The Supreme Court ordered the compulsory disclosure of incomes, assets, liabilities and stated factors like financial capacity, standard of living and requirement of dependants as determinants of maintaining payments. The instructions introduced more uniformity and visibility to the maintenance cases.⁴⁶

Compliance with these directions has, however, remained uneven in practice, prompting the Supreme Court in November 2023 to direct that copies of the judgment be circulated to judicial officers across the country after noting that the disclosure guidelines were not being consistently followed. This follow-up direction indicates that the gap between doctrinal reform and everyday courtroom practice persists even after a judgment as detailed as *Rajnesh v Neha*.⁴⁷

5.6 *Abhilasha v. Prakash* (2020)

The Supreme Court held that an unmarried daughter who has attained majority and has no physical or mental disability cannot claim maintenance under Section 125 of the Code of Criminal Procedure, but clarified that she retains a separate right to claim maintenance from her father under Section 20 of the Hindu Adoptions and Maintenance Act, 1956, to be enforced through a civil claim.⁴⁸

5.7 *Mohd. Abdul Samad v. State of Telangana* (2024)

The Supreme Court reiterated that a divorced Muslim woman can apply under secular maintenance laws to get maintenance. That decision stressed the fact that maintenance is very much related with dignity, equality and financial security, and it cannot be refused in reliance on personal law.

⁴⁵ *Shabana Bano v Imran Khan* (2010) 1 SCC 666.

⁴⁶ *Rajnesh v Neha* (2021) 2 SCC 324.

⁴⁷ 'Judges Not Following Guidelines on Maintenance: Supreme Court Directs to Circulate *Rajnesh v Neha* Judgment to All Judicial Officers' (*LiveLaw*, 7 November 2023) <<https://www.livelaw.in/top-stories/judges-not-following-guidelines-on-maintenance-supreme-court-directs-to-circulate-rajnesh-v-neha-judgment-to-all-judicial-officers-241851>> accessed 13 August 2026.

⁴⁸ *Abhilasha v Prakash* 2020 SCC OnLine SC 736; Hindu Adoptions and Maintenance Act 1956, s 20.

Such rulings indicate an advanced attitude of the judiciary on the rights of women when it comes to maintenance. The application of the maintenance laws in the context of the constitutional values has allowed the courts to empower women in financial protection and pursue the interests of the social welfare and gender justice.⁴⁹

6. CHALLENGES IN IMPLEMENTING WOMEN'S RIGHT TO MAINTENANCE IN INDIA

Even though the Indian law guarantees a lot of protection of women rights to maintenance, it has failed to be operated in most of the instances. Lack of prompt delivery of justice, laxity in implementing maintenance orders, covering up of their incomes and availability of alternative legal solutions to problems tend to deny women access to expeditious financial aid. It leads to a great discrepancy between the law and its application in practice.

6.1 Delay in Maintenance Proceedings

Maintenance is supposed to give financial relief at short notice, but long-standing litigation and adjournments tend to thwart this aim. Delays complicate the ability of women to access the basic needs including food, health, education and housing.

This concern is reinforced by wider pendency data showing that India's subordinate courts, where the great majority of maintenance petitions are filed, were carrying tens of millions of pending cases by the end of 2025, a rise driven in part by case filings consistently outstripping annual disposals. For a claimant seeking maintenance, this systemic backlog can translate into a wait of months or years before even an interim order is heard.⁵⁰

6.2 Enforcement of Maintenance Orders

Obtaining a maintenance order does not always ensure payment. The lack of compliance, hiding of revenues, and long implementation cycles make maintenance laws less effective. There is the need to have stronger enforcement mechanisms to ensure timely compliance.

6.3 Determination of Maintenance

The issue of a reasonable amount of maintenance is also a problem since it cannot be determined using a specific formula. Some of the factors that are usually taken into account by courts include

⁴⁹ *Mohd Abdul Samad v State of Telangana* 2024 SCC OnLine SC 1686.

⁵⁰ Data For India, 'Judicial Pendency in India' (*Data For India*, 20 April 2026) <<https://www.dataforindia.com/pendency/>> accessed 13 August 2026.

income of the parties, standard of living, financial requirements and needs of the claimant. The principles that have been laid down in *Rajnish v. Neha* have enhanced standardish but diversity still persists.

6.4 Concealment of Income

Most of the respondents are hiding their earnings or wealth so as to evade paying proper maintenance. This means that courts can hardly judge financial capacity based on such practices. This is a very significant safeguard, which is mandate disclosure of financial information, as stipulated in *Rajnish v. Neha*.

Reports from various High Courts indicate that even this disclosure requirement is not uniformly enforced, with judicial officers in several states having to be specifically directed to make the filing of the Affidavit of Disclosure of Assets and Liabilities a mandatory step in every maintenance proceeding. Such repeated administrative intervention suggests that concealment of income remains a live practical problem notwithstanding the existence of a clear procedural safeguard.⁵¹

6.5 Multiple Legal Remedies

Under various laws, such as the Bharatiya Nagarik Suraksha Sanhita, 2023, Hindu Marriage Act, the Hindu Adoptions and Maintenance Act and the Protection of Women from Domestic Violence Act, 2005, women are allowed to claim maintenance. Though the remedies offer a broader protection, they can also result in duplicative proceedings and delays in the process.

6.6 Need for Uniform Maintenance Principles

The variation between personal laws frequently leads to discrepancy in the standards of eligibility, maintenance calculation and enforcement. Standardized requirements on the maintenance evaluation, financial reporting, and enforcement would bring more uniformity and yet appeal to the diversity of the Indian legal framework. The maintenance laws are supposed to be effectively implemented by ensuring speedy disposal of cases, enforcement mechanisms, financial transparency and legal awareness. It is at this point that maintenance achieves its aim of preserving the dignity of women, similarity, and financial stability.

7. NEED FOR A HARMONIZED MAINTENANCE FRAMEWORK IN INDIA

⁵¹ 'Mandatorily Pass Order Asking Parties to File Disclosure of Assets & Liabilities Affidavit in Maintenance Proceedings: Allahabad HC to Judicial Officers' (*LiveLaw*, 12 March 2024) <<https://www.livelaw.in/high-court/allahabad-high-court/allahabad-high-court-judicial-officers-disclosure-assets-liabilities-affidavit-maintenance-proceedings-252269>> accessed 13 August 2026.

The presence of various personal and secular legislation has led towards different norms of establishing and executing maintenance. It needs to have a harmonised maintenance structure where all women enjoy equal maintenance agreements regardless of their religion. This would be in line with the constitutional principles of equality of Article 14, special protection of women under Article 15(3), the right of dignity under Article 21 and the Directive Principles of State Policy. This does not aim to pharaoh personal laws but to provide a fair, effective, and equal application of maintenance rights.

7.1 Uniform Guidelines Rather Than Complete Uniformity

Maintenance reform must aim at building up general principles instead of doing away with personal laws. Standardized rules can consist of:

- Standard criteria for determining maintenance.
- Recognition of women's unpaid domestic and caregiving work.
- Mandatory disclosure of income and assets.
- Effective enforcement of maintenance orders.
- Time-bound disposal of maintenance proceedings.

Such measures would promote consistency” reduce unnecessary litigation, and strengthen women's economic security while respecting India's legal diversity.⁵²

8. SUGGESTIONS AND RECOMMENDATIONS

Despite the development of the Indian maintenance laws, there are still practical challenges that underlie the adoption of the maintenance laws. To enhance the effectiveness of the current framework, the following measures would be effective.

8.1 Comprehensive Maintenance Legislation

Maintenance Law A total maintenance law ought to bring about harmony between the personal and secular law by setting forth equivalent rules of entitlement, identification, and implementation of maintenance.

8.2 Uniform Guidelines for Determining Maintenance

⁵² Law Commission of India, *Report No 252: Right of the Hindu Wife to Maintenance* (2015); Constitution of India art 44.

When evaluating maintenance, standard requirements should be taken, such as income, standard of living, financial obligations, health, and children need, and the economic aspect of the mother doing domestic duties that were not remunerated.

This recommendation finds support in national time-use data, which shows that women spend more than three times as many minutes each day on unpaid domestic and caregiving work as men do, a disparity that has narrowed only marginally over the past five years. Incorporating this data into maintenance calculations would give quantitative substance to what is otherwise treated as an abstract equitable consideration.⁵³

8.3 Strengthening Enforcement Mechanisms

Effective monitoring, rapid implementation procedures and actions to unearth hidden income and assets should help support maintenance orders to make them compliant in time.

8.4 Time-Bound Disposal of Cases

The family courts are expected to lean towards maintenance cases, with minimal adjournments and interim maintenance cases disposed in the first case possible.

8.5 Recognition of Unpaid Domestic Work

Childcare, housekeeping, and caregiving are the functions that women play that ought to be seen in the decision-making process on maintenance since they are a considerable economic input to the family.

The scale of this contribution is considerable in monetary terms, with official estimates valuing women's unpaid domestic and care work at between fifteen and seventeen per cent of India's gross domestic product, a figure that dwarfs the modest sums typically awarded as maintenance in most proceedings. Formally accounting for this value in maintenance awards would bring the jurisprudence closer to the substantive equality that Articles 14, 15(3) and 39(d) are meant to guarantee.⁵⁴

9. CONCLUSION

⁵³ Ministry of Statistics and Programme Implementation, *Time Use Survey 2024* (Government of India 2025), discussed in 'In 2024, Women Were Still Spending Significantly Higher Time in Unpaid Domestic Work Than Men: Survey' *The Wire* (New Delhi, 26 February 2025) <<https://m.thewire.in/article/economy/in-2024-women-are-still-spending-significantly-higher-time-in-unpaid-domestic-work-than-men-survey>> accessed 13 August 2026.

⁵⁴ Ministry of Women and Child Development data cited in IMPRI Impact and Policy Research Institute, 'India's Care Economy: A Critical Analysis' (IMPRI, 22 March 2025) <<https://www.impriindia.com/insights/indias-care-economy-critical-analysis/>> accessed 13 August 2026.

The right of maintenance has taken a step forward out of a moral requirement into a legally enforced right on the constitutional concepts of equality, dignity and social justice. Women are now financially better safeguarded by constitutional provisions, statutory legislation, and judicial interpretation, and maintenance is now seen as a key tool of gender justice.

Regardless of this extensive body of legal provisions, the delay in proceedings, unpredictable awards of maintenance, poor enforcement, and hiding of revenues are known to adversely impact the proper implementation of the same. A way to overcome these difficulties is to harmonise principles of maintenance, enforce them more effectively, open their finances, and the unpaid care that women do in their homes.

An integrated maintenance system integrating legislative change with practice will guarantee that maintenance is no longer a system of charity but legally entrenched practice that enhances women dignity, financial independence and substantive equality in India.



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