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Redefining Maintenance: Ensuring Women’s Entitlement while Detecting Misuse in Today’s Legal Landscape

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This paper examines the evolution of maintenance laws in India, tracing its roots and transition from protective measures in a patriarchal society to a contemporary legal frontline of gender parity and accountability. The core motive of maintenance is to safeguard economically vulnerable women, as in a patriarchal society, it is believed that women are vulnerable. Maintenance provisions that are found in the Hindu Marriage Act (1955), the Muslim Women (Protection of Rights on Divorce) Act (1986), and Section 125 CrPC are increasingly scrutinised against the backdrop of rising female financial independence and working culture. While feminist scholars argue that structural inequalities persist, particularly in rural regions, the judiciary is navigating a shift toward ‘need-based’ rather than ‘gender-based’ alimony. Through an analysis of landmark judgments such as Mamta Jaiswal v Rajesh Jaiswal and Shab Bano Begum,¹ the court’s effort to balance the constitutional right to dignity under Article 21² of the Constitution of India, with the need to curb the misuse of law by ‘privileged’ litigants. The susceptibility of gender-specific maintenance provisions to strategic manipulation. By exposing instances where claims are built on suppressed facts or fabricated distress, these cases signal an urgent need for the judiciary to transition. The paper further discusses the emergence of gender-neutral responsibilities, such as a daughter’s obligation to maintain parents and children, as evidence of a maturing legal framework. The legal framework should be transparent, balanced, and gender-neutral on the basis of societies in the current situation; a maintenance regime that prioritises genuine financial need over traditional gender roles, ensuring justice for all parties in a modernising society.

¹ Smt Mamta Jaiswal v Rajesh Jaiswal II (2000) DMC 170

² Constitution of India 1950, art 21

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INTRODUCTION

Indian society has long operated within a patriarchal framework that reinforces unequal power dynamics between men and women. This structure has historically portrayed men as superior and women as a dependent and economically vulnerable class. Many legal provisions appear to favour women not out of bias, but out of a deliberate attempt by the legislature and judiciary to safeguard their rights and liberties in a system where women were structurally disadvantaged. From seat reservations to maintenance entitlements, women have been accorded protective measures, which in turn have sparked significant debate in contemporary society. Today, public opinion is often divided into two groups: one group supports the continuance of such protective laws, arguing that women still face entrenched inequalities, while the other questions whether these 'special rights' remain justified given the evolving social and economic position of women. Feminist scholars, therefore, challenge the assumption that women have universally progressed to a level where these protections are no longer needed. Research and surveys indicate that although urban women may have achieved greater financial independence and social mobility, women in rural regions remain substantially vulnerable, with limited economic opportunities and persistent patriarchal constraints.³ Feminists further argue that society continues to categorise women primarily as a vulnerable group rather than recognising them as equal pillars of the social structure. The irony remains that many intellectuals overlook this brutal truth while readily questioning the legitimacy of rights granted to women when even a minimal privilege is extended to them.

Maintenance laws in India have evolved on the foundational presumption that women were financially dependent on their husbands. However, contemporary social realities have shifted significantly. As women increasingly join the workforce and contribute substantially to household finances, many argue that the existing maintenance framework no longer reflects economic parity within households. They claim that despite women often earning as

³ Flavia Agnes, 'Maintenance for Women Rhetoric of Equality' (1992) 27(41) *Economic and Political Weekly* <<https://www.epw.in/journal/1992/41/perspectives/maintenance-women-rhetoric-equality.html>> accessed 27 February 2026

much as or even more than their husbands, societal expectations continue to impose long-term financial responsibilities primarily on men.

MAINTENANCE UNDER THE MARRIAGE ACTS IN INDIA

Section 24⁴ states that both the husband and the wife may request maintenance from the other spouse, but this will depend on the particulars of each case. Gender doesn't take gender as a relevant factor in the determination of alimony; instead, it takes into account several consequences, such as each spouse's income and earnings, job status, assets and obligations, and total financial situation. The amount of maintenance is strictly within the discretion of the court.

Under Section 18(2),⁵ a Hindu wife can live separately from her husband without losing her right to maintenance. She is entitled to claim maintenance if the husband deserts or wilfully neglects her, or for any other reason which is unreasonable or creates mistreatment towards the wife. According to Muslim law, rights to alimony and maintenance are available only for women. This rule will also not be affected even if the wife happens to have a better financial position than the husband. The Muslim Women (Protection of Rights on Divorce) Act 1986⁶ also prescribes the provisions relating to the maintenance/alimony. After the divorce, Muslim women are entitled to a reasonable and fair amount to be paid during the Iddat period. This is to protect the status of women and ensure the safety of women after divorce. While the Special Marriage Act 1954, which governs civil marriages irrespective of religion, offers a framework similar to the Hindu Marriage Act, but with a key distinction in permanent alimony. Under Section 36⁷ of the same act, the court can grant alimony pendente lite, which is temporary maintenance during the pendency of the suit, to a wife who lacks independent income. However, Section 37⁸ regarding permanent maintenance is generally gender-specific, allowing only the wife to claim a sum for her support and maintenance from the husband for her lifetime or until she remarries.

Beyond these matrimonial personal laws, the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023, which replaced the Code of Criminal Procedure (CrPC) 1973, contains a powerful,

⁴ Hindu Marriage Act 1995, s 24

⁵ The Hindu Adoptions and Maintenance Act 1956, s 18(2)

⁶ Muslim Women (Protection of Rights on Divorce) Act 1986

⁷ The Special Marriage Act 1954, s 36

⁸ The Special Marriage Act 1954, s 37

secular provision for maintenance under Section 144⁹ (formerly it was Section 125 CrPC). This law is unique because it transcends religious boundaries and applies to parents who are unable to maintain themselves. It is primarily a protective tool designed to prevent 'vagranacy and destitution,' focusing on the 'sufficient means' of the person.

Furthermore, the Protection of Women from Domestic Violence Act 2005 provides an additional layer of financial security. Under Section 20¹⁰, a Magistrate can direct a respondent to pay 'monetary relief' to an aggrieved woman, including in live-in relationships, to cover expenses incurred as a result of domestic violence, such as medical costs or loss of earnings, in addition to regular maintenance. The Maintenance and Welfare of Parents and Senior Citizens Act 2007¹¹ shifts the focus to the elderly, making it a legal obligation for children and heirs to provide a monthly allowance to parents or senior citizens who cannot support themselves from their own earnings or property.

THE JUDICIARY'S ROLE IN DEFINING MAINTENANCE ENTITLEMENTS

Courts recognise maintenance as a matter of dignity and survival for women who are unable to maintain themselves. As many women get married at an early age, some leave education for marriage, which can result in homelessness, destitution and loss of basic human dignity. This aligns with constitutional principles of gender justice and the right to live with dignity under Article 21¹² of the Constitution of India. Criticism mostly arises about the lack of accountability for how maintenance money is actually spent when children are involved. There are several judgments regarding this matter to ensure that maintenance is only for dependent and helpless spouses.¹³ In *Mamta Jaiswal v Rajesh Jaiswal*,¹⁴ the court held that maintenance is meant for truly dependent wives, not for those who are educated and capable of earning but choose not to work. Similarly, in *Omar Abdullah v Payal Abdullah*,¹⁵ it was clarified that interim maintenance can be granted only after determining whether the wife is

⁹ Bharatiya Nagarik Suraksha Sanhita 2023, s 144

¹⁰ The Protection of Women from Domestic Violence Act 2005, s 20

¹¹ Maintenance and Welfare of Parents and Senior Citizens Act 2007

¹² Constitution of India 1950, art 21

¹³ Jagot Singh Arora, 'Contemporary Analysis of Divorce and Maintenance Laws In Modern India' (2025) 5(2) Indian Journal of Integrated Research in Law <<https://ijirl.com/wp-content/uploads/2025/03/CONTEMPORARY-ANALYSIS-OF-DIVORCE-AND-MAINTENANCE-LAWS-IN-MODERN-INDIA.pdf>> accessed 27 February 2026

¹⁴ *Smt Mamta Jaiswal v Rajesh Jaiswal II* (2000) DMC 170

¹⁵ *Omar Abdullah v Payal Abdullah* (2024)

genuinely unable to maintain herself and whether the husband has neglected her. In *Bhushan Kumar Meen v Mansi Meen*,¹⁶ the Supreme Court stressed that when a woman has no independent source of income, maintenance becomes essential. Further, the landmark ruling in *Shah Bano Begum v Mohd. Ahmad Khan*¹⁷ affirmed that Section 125 CrPC is a secular, welfare-oriented provision ensuring maintenance for all vulnerable wives until they remarry.

IMPACT OF GENDER BIAS IN MAINTENANCE LAWS

Nowadays, it is seen that the laws which are preserved to protect the rights of women are now being misused by some privileged women to exploit men for securing more money. Women misuse these laws for money by instituting false cases against their husbands, even if they have the means to maintain themselves. This led to significant financial, emotional, and social implications for husbands. It has been witnessed by the courts in different cases where the woman tried to obtain maintenance from her husband by misusing the laws.¹⁸ In *Anil Jain v Smt. Sunita*,¹⁹ the wife, stayed in the matrimonial home for only twelve days without reporting any harassment during that period. Yet she later filed a maintenance claim alleging ill treatment. The court, finding no evidence to support her allegations, dismissed the claim. Similarly, in *Smt. Ritu @ Ridhima & Anr. v Sandeep Singh Sangwan*,²⁰ the wife, despite being employed as an assistant professor, concealed her income throughout the proceedings. It was only during cross-examination that her employment was exposed, leading the court to conclude that she had deliberately withheld information to secure maintenance. These cases illustrate how gender-specific maintenance laws can be manipulated, highlighting the need for more balanced and transparent mechanisms to prevent misuse.

CONCLUSION

Despite the misuse, the fundamental importance of maintenance laws in India cannot be disregarded. Judicial developments also indicate a broader shift toward gender-neutral responsibility. In *Vasant v Govindrao Upasrao Naik and Ors* and *V.M. Arbat v K.R. Sawai*,

¹⁶ *Bhushan Kumar Meen v Mansi Meen @ Harpreet Kaur* AIR ONLINE 2009 SC 407

¹⁷ *Mohd. Ahmed Khan v Shah Bano Begum & Ors* (1985) 2 SCC 556

¹⁸ Joysri Mondal and Advocate Prithwish Ganguli, 'Reforms in Maintenance Laws: Addressing Gender Bias' (2024) SSRN <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5026414> accessed 10 March 2026

¹⁹ *Anil Jain v Smt. Sunita* [2014] Crim Revision No 829/2014

²⁰ *Smt. Ritu @ Ridhima & Anr v Sandeep Singh Sangwan* CRR No 457/2022

the courts held that daughters are equally obligated to maintain their parents. This recognition of equal responsibility illustrates the judiciary's willingness to move beyond traditional gendered expectations. This reinforces the argument that maintenance should not be viewed through a gender bias but rather as a duty in financial need and fairness, irrespective of whether the claimant is a man or a woman. A gender-neutral, transparent and balanced framework would prevent exploitation, reduce biases, and ensure that support reaches the spouse who genuinely requires financial stability. As society continues to change, maintenance laws must evolve, embracing principles of equality, accountability, and modernity to promote justice for all parties involved. The trajectory of Indian jurisprudence suggests that maintenance is no longer viewed merely as a 'paternalistic safety net' but as a fundamental tool for ensuring social justice and human dignity. The law aligns itself with the constitutional vision of a gender-neutral society. As the Supreme Court emphasised in the landmark *Rajesh v Neha* (2020) judgment, the goal is to balance the interests of both parties through mandatory disclosure of assets and liabilities, thereby curbing the 'litigation of attrition.' As India's social fabric becomes increasingly egalitarian, these laws must continue to prioritise substantive equality over formal procedures, ensuring that the pursuit of financial support does not become a weapon of harassment, but remains a shield for the vulnerable regardless of their gender.